

January 28, 2014

Jennifer L. Richter
Direct Tel: 202-457-5666
jrichter@pattonboggs.com

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Notice of Ex Parte: CC Docket No. 02-6**
Joint Petition for Reconsideration – FY2001, FY2003, and FY2004
Morrow County School District and Morrow Development Corporation

Dear Ms. Dortch:

We understand that Commission staff and the Oregon Congressional Delegation met before the holidays to discuss the Joint Petition for Reconsideration filed by Morrow County School District (the “School District”) and Morrow Development Corporation (“Morrow Development”).¹ Following that meeting, we discussed a number of follow-up questions with FCC staff and the Oregon Congressional Delegation. In response to those questions, we searched relevant files, the FCC record, and USAC databases in order to provide as much information as possible. As FCC staff is aware, our firm previously had no historical knowledge regarding the FY2001 facts and circumstances. The School District’s original FY2001 appeal was filed by another law firm. However, our work related to the follow-up questions revealed important information that we wish to share as a supplement to the record before the Bureau.

- 1) Based upon our review of the record for FY2001, it appears the most USAC could seek to recover from the School District for FY2001 is \$262,705, the value of the contract with ABS Computers (“ABS”).²**

In the *Morrow Order*, the Bureau found that USAC should seek to recover FY2001 funds from the School District only where Nate Arbogast had a “dual role” as an employee of both the School District and a service provider.³ While Mr. Arbogast was an employee of the School District and an

¹ See Joint Petition for Reconsideration, Morrow County School District and Morrow Development Corporation, CC Docket No. 02-6 (filed June 24, 2013) (“Joint Petition”); see also *Request for Review of Decisions of the Universal Service Administrator by Morrow County School District, Lexington, OR and Morrow Development Corporation*, Order, 28 FCC Rcd 6898 (2013) (“*Morrow Order*”).

² See Funding Request 633208.

³ See *Morrow Order*, ¶ 4 (“Consistent with precedent, we find that the Arbogast Business employee’s dual involvement in the bidding process – by acting on behalf of Morrow County and on behalf of a bidder – constitutes improper service provider involvement, in contravention of E-rate program rules.”).

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owner of ABS, a service provider, during the FY2001 competitive bidding process, Mr. Arbogast was not an employee of – and had no relationship with – Morrow Development when bids were placed and contracts were awarded in FY2001. In view of the *Morrow Order*, we believe it would be in error for the FCC to recover \$1.145 million from the School District for its separate contract with Morrow Development.⁴ This contract should have been treated the same as the School District's other FY2001 contracts with vendors that did not employ Mr. Arbogast. Just as the Bureau found that USAC should not seek recovery of funds related to those other vendor contracts, the Bureau should have found the same for the Morrow Development contract.⁵

Exhibit 1 contains a chart of information from the USAC database reflecting the service providers for which the School District requested funding in FY2001, the amount of funding requested for each service provider, and the amount USAC authorized for distribution for each. The School District received total disbursements in FY2001 of \$1,529,736, of which only \$262,705 was associated with the School District's contract with ABS that is the crux of the problem.

Exhibit 1 contains excerpts from the record reflecting that, due to the rural location and the relatively small size of the School District, there were very few technology and Internet companies that were willing or able to work with the School District in FY2001. Some companies would not bid on contracts with the School District because it did not have enough computer users, and there simply was not enough revenue to be made from School District contracts for bigger firms. Indeed, during the first few years of the E-rate program, the School District never received any bids in response to its Form 470s. We understand this was a common occurrence in rural areas at the start of the E-rate program.

For FY2001, in compliance with Oregon state law and School District policy, the School District included a call for bids for E-rate eligible products and services in the local newspaper in addition to posting its Form 470. *See Exhibit 1*. After receiving no bids from either the posting of the Form 470 or the newspaper advertisement, the School District solicited bids from ABS, Morrow Development, Qwest and UUNET for E-rate eligible high speed Internet services. *See Exhibit 1*.

Based on the documents from FY2001 that we have been able to locate and review, it appears that during the FY2001 competitive bidding process, the School District requested funding for 17 different service contracts with at least eight different vendors. The School District's testimony in Exhibit 1 is that it complied with Oregon state law by seeking bids from at least three vendors for each contract. Therefore, the School District could have received as many as 51 bids, although it is likely that there was overlap in the vendors that bid on the various services.

The record reflects that ABS submitted a bid to provide the School District with "Wholesale T3 Internet Service." *See Exhibit 1*. ABS was chosen for this small contract because it was the lowest

⁴ *See* Funding Request Number 633073.

⁵ *See Morrow Order*, ¶ 5 ("...[W]e grant the requests for review relating to the funding requests listed in Appendix B, because we find there was no improper service provider involvement with the bidding processes with respect to the applications identified in Appendix B.").

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bid, and it was the only Cisco-authorized partner in the area that would offer the routers that the School District needed. The School District accepted this bid and entered into a contract with ABS for which USAC distributed \$262,705.04 in funding. During the FY2001 competitive bidding process, Mr. Arbogast was an employee of the School District and an owner of ABS. This is the “dual role” problem the Bureau identified in the *Morrow Order* as the basis for seeking recovery of funds.⁶

Separately, during the FY2001 competitive bidding process, Morrow Development submitted a bid to provide the School District with OC3 fiber optic service to support the Internet access service. See Exhibit 1. The School District accepted this bid and entered into a contract with Morrow Development for which USAC distributed \$1,145,376.

During the FY2001 competitive bidding process, Mr. Arbogast was not an employee of – and had no relationship with – Morrow Development. Given this, there was no “dual role” problem with respect to the Morrow Development contract for FY2001, and the *Morrow Order* makes clear that USAC should not seek recovery of the \$1.145 million distributed for Morrow Development’s separate contract. As the Bureau explained:

[W]e think the better reading of the *MasterMind Order* is that USAC should determine whether the contact person’s company actually participated in the bidding for a particular service or not and deny only those funding requests where the company actually participated in the bidding process. When an applicant seeks bids on multiple funding requests as part of an application, improper service provider involvement during the competitive bidding process by one service provider does not indicate a violation on the part of every vendor selected to provide services arising from the same FCC Form 470.⁷

On this basis, the Bureau found that USAC had erred by seeking recovery of funds distributed for the School District’s various other service providers in FY2001 for whom Mr. Arbogast did not work.⁸ The Bureau should apply this same precedent with respect to Morrow Development and find that the most USAC could seek to recover for FY2001 is the \$262,705 for the School District’s contract with ABS. Separately, we continue to believe that a waiver with respect to recovery of the \$262,705 is warranted.

2) It is important to understand the actual impact of the “dual role” problem in this case.

Mr. Arbogast’s “dual role” in the FY2001 bidding process is not in dispute. He was an employee of the School District, and he was an owner of ABS, one of the service providers that bid on an E-rate contract with the School District. However, it is important to understand that, because of Oregon state law and local procurement regulations, the School District proactively and directly addressed

⁶ See *Morrow Order*, ¶ 4.

⁷ *Morrow Order*, ¶ 5.

⁸ See *Morrow Order*, ¶ 5.

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the “dual role” situation so that the conflict of interest would not actually compromise the competitive bidding process. Mr. Arbogast’s dual interests were publicly disclosed, and the Superintendent made all decisions on which bidding companies would win the contracts.

Given the proactive measures taken by the School District to shield Mr. Arbogast from all relevant decision-making for FY2001, it appears the real problem with respect to his dual interests in FY2001 is that he signed the Form 470 on behalf of the School District. The *MasterMind* case, which was released less than seven months prior to the School District filing its application for FY2001, stood for the proposition that the Commission’s competitive bidding rules are violated where a service provider that is listed as the contact person on the Form 470 also participates in the competitive bidding process as a bidder.⁹ Because Mr. Arbogast signed the Form 470 for the School District, there was a *per se* rule violation by ABS and the School District for FY2001. As covered below in Section 6, it appears the School District was not aware of the new *MasterMind* rule.

However, for FY2003 and FY2004, the facts were different. Mr. Arbogast’s duties regarding E-rate competitive bidding were assigned to other School District staff from the start. As covered in detail in the Joint Petition,¹⁰ Mr. Arbogast signed none of the relevant paperwork and was entirely shielded from the competitive bidding process. No actual rule violations have been asserted or substantiated by USAC for FY2003 or FY2004, and we have found no rule violations in our review of the record.

3) Is there support for a theory that the taint from the School District’s contract with ABS in FY2001 extended into FY2003 and FY2004?

We understand that Bureau staff has concerns regarding whether the taint from the School District’s FY2001 contract with ABS may have extended into FY2003 and FY2004. The record, however, shows this did not happen for three reasons.

First, the record shows that the School District’s tainted contract with ABS in FY2001 did not survive past 2001. Before completing the services it had contracted to provide, ABS informed the School District that it would not be able to complete the project. *See Exhibit 1*. ABS apparently did not have enough capacity to complete the job. *See Exhibit 1*. The School District sought a replacement company, and Morrow Development agreed to complete the job. This is reflected on the School District’s request to change service providers from the ABS SPIN (143011380) to the Morrow Development SPIN (143023033), submitted to USAC on October 11, 2001, and attached hereto as *Exhibit 2*.

Second, there was a complete break in the School District’s E-rate funding from FY2001 to FY2003. As reflected in the chart attached at *Exhibit 3*, containing information from the USAC

⁹ *See Request for Review of Decisions of the Universal Service Administrator by MasterMind Internet Services, Inc.*, Order, 16 FCC Rcd 4028, ¶ 10 (2000) (“[A] violation of the Commission’s competitive bidding requirements has occurred where a service provider that is listed as the contact person on the Form 470 also participates in the competitive bidding process as a bidder.”) (“*MasterMind Order*”).

¹⁰ *See* Joint Petition at 5-7.

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database, the School District requested E-rate funding in FY2002 for service from eight service providers, including Christenson Technology Services, Dell Marketing LP, CenturyLink Qwest Communications Company, LLC, Telco Wiring and Repair, AT&T Mobility, Shared Communications, ABS, and Morrow Development. The letter from USAC included in Exhibit 3 reflects that all of these funding requests for FY2002 were denied because ABS bid on the FY2002 contracts. ABS continued to exist until April 2002 and apparently bid on the FY2002 contracts. Applying the “dual role” precedent adopted in the *Morrow Order*, however, USAC probably should have granted all of the funding requests, except for the ABS-related requests.

Third, as discussed below in Section 4 of this letter, the School District held separate competitive bidding processes for FY2003 and FY2004. The FY2003 bid sheets contain evidence of a new contract with Morrow Development, referenced as #C0304-01. There is no evidence of continuation contracts from FY2001.

4) Is there any support in the record for a theory that there was not competitive bidding for FY2001, FY2003, and FY2004 E-rate contracts because everyone thought the “fix was in” for Mr. Arbogast?

We understand that Bureau staff may be concerned that service providers other than ABS and Morrow Development did not bid on contracts with the School District for the three funding years based on a belief that ABS and/or Morrow Development would be favored in the bidding process. This theory, however, is not supported by the record, which reflects that many service providers bid on contracts with the School District during FY2001, FY2003, and FY2004.

In compliance with Oregon state law and School District policy, the School District included a call for bids for E-rate eligible products and services in the local newspaper for each funding year, but this method seldom resulted in bid responses. In order to comply with Oregon state law on purchasing, and in order to ensure that the School District received the best prices, if three bids were not received, the School District was required, nevertheless, to contact eligible service providers to seek at least three quotes.¹¹ If three quotes were not reasonably available, Oregon law required that the School District maintain a written record of the effort made to obtain these quotes. The record shows that the School District complied with this requirement. The competitive bidding process undertaken for FY2001 is described in more detail in Section 1 of this letter. The processes undertaken for FY2003 and FY2004 are described below.

¹¹ Oregon Revised Statutes § 279C.414(1) provided at the time: “Rules adopted under ORS 279A.065 to govern competitive quotes shall require the contracting agency to seek at least three informally solicited competitive price quotes from prospective contractors. The contracting agency shall keep a written record of the sources and amounts of the quotes received. If three quotes are not reasonably available, fewer will suffice, but in that event the contracting agency shall make a written record of the effort made to obtain the quotes.”

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FY2003

With respect to the FY2003 competitive bidding process, we have attached information at Exhibit 4, including a chart reflecting the same categories of information from the USAC database as provided for FY2001. Based on the documents we have been able to locate and review, it appears that in FY2003 the School District received at least 25 bids from at least 21 service providers, only one of which was Morrow Development. ABS did not bid in FY2003 because it was no longer in existence. The attached information contains the public bid announcement, together with, for most of the requested services, an award letter and the “Three Price Bids” score sheet, which indicates either who bid for the service or who was contacted and requested to bid for the service. The bid sheet also indicates which party was chosen for that service and why.¹² The bid sheet that indicates that Morrow Development won the bid for OC12 service includes a reference to the new contract that was awarded, #C0304-01. Additionally, the information reflects that Morrow Development also bid on the contract to provide LAN / Network wiring for two elementary schools, but it was not the lowest bid and was not chosen by the School District. The LAN network contract was awarded to Uni-Tech Communications. Clearly, Morrow Development was not given inside information about the bidding and was not shown any favoritism by the School District. Morrow Development secured just two of the 14 contracts awarded by the School District for FY2003.

FY2004

With respect to the FY2004 competitive bidding process, we have attached information at Exhibit 5, again including a chart of information from the USAC database. Based on the information we have been able to locate and review, it appears that in FY2004 the School District requested funding for five service contracts with four vendors, one of which was Morrow Development.¹³ It is the School District’s testimony, and it is clear from Exhibit 5, that the School District complied with Oregon state law by seeking at least three bids for each service. Therefore, the School District could have received as many as 15 bids. Again, ABS did not bid because it was no longer in existence. Similar to FY2003, the attached competitive bidding information includes a public notice announcing that bids would be received. The information also contains the emails from Tami Sneddon to a number of service providers requesting that they bid to provide wide area network circuits. Additionally, the information includes two of the award letters for the services sought that year and the “Three Price Quotations” score sheet for those services. Morrow Development was requested to bid on the local and long distance service to “Irrigon,” but Qwest was awarded the contract.

Clearly, the School District created a situation each year to foster competitive bidding.

Congressional staff has emphasized to FCC staff that it was not unusual at that time, and it still is not unusual today, in rural areas, to have very few options for broadband and related services. The bidding sheets for FY2003 and FY2004 reflect that the School District was faithful to its local and

¹² The paper file of bidding records that we have contains records for seven service providers in FY2003, but the USAC database reflects nine. We have provided all the information we could find.

¹³ The paper file of bidding records that we have contains records for two service providers for FY2004, but the USAC database reflects four service providers and the award of five contracts.

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state legal requirements to seek at least three bids for each contract. **There is no evidence, whether factual or anecdotal, from anyone, that there were any competitive bidding problems in FY2003 and FY2004.**

5) Can you confirm that ABS and Mr. Arbogast did not profit from providing services to the School District?

We provided excerpts from the record attached hereto as Exhibit 6 confirming that neither ABS nor Mr. Arbogast made a profit from providing services to the School District. Clearly, there was no intent to defraud the program or waste E-rate resources. ABS and other service providers were requested to bid on the service after no bids were received. ABS was the lowest bidder, it was the only Cisco-authorized distributor in the area, and the School Board agreed that his bid was permissible because all state and local laws related to conflicts of interest were followed, and “no profit was going into Mr. Arbogast’s pocket.”

6) The Bureau has granted waivers in similar situations.

Even if the Bureau determines that USAC should seek recovery of \$262,705 for the School District’s FY2001 contract with ABS, a waiver with respect to this amount, and any other amounts, is warranted. As explained in the Joint Petition and ex parte of September 30,¹⁴ waivers have been granted in similar situations where school personnel with limited E-rate experience unintentionally committed an E-rate violation despite good faith efforts to comply. The School District recognizes, in hindsight, that there was a *per se* rule violation in FY2001 with respect to its contract with ABS because, even though Mr. Arbogast was shielded from the competitive bidding process, he signed the Form 470 for the School District and participated in competitive bidding as a service provider. However, the declarations of former and current School District employees, submitted with the Joint Petition and attached hereto, show that the School District did not knowingly violate the rule because the School District was not aware the rule existed.¹⁵ Indeed, the *MasterMind Order*,¹⁶ which first articulated the rule, was released in May 2000, just months before the School District filed its Form 470 in December.

The School District – a small, rural district in Oregon – simply did not have the experience or resources to stay abreast of the ever-evolving E-rate rules, or to fully understand the complexities of the E-rate program, which was only in its early stages at that time. The record demonstrates that this rural Oregon School District in 2001 did not act with any intent to defraud the E-rate program. To the contrary, the School District acted in good faith to address the conflict of interest posed by Mr. Arbogast by disclosing the conflict, removing Mr. Arbogast from decision-making, complying

¹⁴ See Joint Petition at 11-12; see also Letter from Jennifer L. Richter, Counsel to Morrow County School District and Morrow Development Corporation, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, CC Docket No. 02-6 (filed Sept. 30, 2013).

¹⁵ See Joint Petition at 10, n. 19 (*citing* Declaration of Bruce Anderson and Declaration of Rhonda Lorenz, attached to Joint Petition at Exhibit 5).

¹⁶ See *MasterMind Order*, ¶10.

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with all known state and local regulations regarding how to handle conflicts of interest, and doing what it could to ensure a competitive and opening bidding process by soliciting multiple bids. Although the Commission had not articulated a general E-rate conflict of interest standard at that time – and still has not done so today – the School District complied with Oregon state law regarding conflicts of interest, and the School District’s procurement policy, which also addressed conflicts of interest. The School District proactively made good faith efforts to fully comply with all legal obligations about which it was aware to ensure no negative impacts on competitive bidding would be felt because of Mr. Arbogast’s conflict of interest.¹⁷

The Bureau can rely on Commission precedent to grant a waiver in this situation. In granting a waiver in the *Aiken County Order*, the Commission stated, “We believe that the petitioners made good faith efforts We note that those tasked with working on E-rate applications are typically school administrators, technology coordinators, teachers and librarians who may have little experience with distinguishing between eligible and ineligible services for the E-rate program. This may be particularly true of staff at small school districts or libraries.”¹⁸ Moreover, as explained in the *Cincinnati City Order*, the Commission has found it appropriate to grant a waiver where, as is the case here, there is no evidence in the record that a school district engaged in activity intended to defraud or abuse the E-rate program.¹⁹ Here, the School District ensured that Mr. Arbogast would receive no profit from his efforts to provide Internet access. Although we acknowledge that the optics are not good, the School District made an honest mistake, out of ignorance, and there was no waste or fraud in this case.

7) Declarations.

Finally, we provided FCC staff with better quality copies of the declarations that were provided with the Joint Petition. Copies of the declarations are attached hereto as Exhibit 7. The declarations provide important historical information and context about what was happening in this rural area of Oregon during the relevant years. In particular, they discuss the separate competitive bidding processes undertaken in each year, and the measures taken in each year to comply with local and state law, avoid conflicts, and shield Mr. Arbogast from the competitive bidding process. They also discuss the School District’s lack of information and understanding of the intricacies of the E-rate program in rural Oregon 10-13 years ago. Key excerpts from the declarations include the following:

- “To my knowledge, none of the prior MCSD superintendents who supervised Mr. Arbogast had any relevant computer experience or extensive knowledge of the E-rate program. This does not surprise me, given the time periods involved (pre-2004), our rural geographic location in Oregon and the fact that the job of MCSD superintendent includes a broad set of

¹⁷ See Joint Petition at 10, n. 20 (*citing* Declaration of Bruce Anderson).

¹⁸ See *Request for Review of a Decision of the Universal Service Administrator by Aiken County Public Schools, Aiken, SC, et al.*, Order, 22 FCC Rcd 8735, ¶ 9 (2007).

¹⁹ See *Request for Review of a Decision of the Universal Service Administrator by Cincinnati City School District, Cincinnati, OH*, 21 FCC Rcd 5994, ¶ 8 (2006).

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duties akin to a Chief Executive Officer with responsibility for all schools and employees in the school district.” (Declaration of Dirk Dirksen, ¶ 12, dated July 11, 2011).

- “At the time I was Superintendent, I believed that MCSD was lucky to have anyone on staff who was as knowledgeable about computers as Mr. Arbogast. At the time, qualified individuals such as Mr. Arbogast were very rare in our rural part of the state. Mr. Arbogast was very hard-working, and I believe, truly dedicated to bringing internet technology to MCSD. He was from our part of the state, as was his family, and lived here with his wife and children.” (Declaration of Bruce Anderson, ¶ 12, dated July 18, 2011).
- “From my perspective, E-rate was a very complex program, and very few of us in the public schools in our part of Oregon knew much about it. When I resigned from my prior Superintendent position in Crook County School District, Oregon, they had not yet begun to participate in E-rate, or if they did, I was not involved in the process. Crook County, Oregon was also a rural school district.” (Declaration of Bruce Anderson, ¶ 16).
- “As Superintendent of MCSD, I functioned as the school district’s Chief Executive Officer and had general supervisory responsibilities over all schools and employees. As such, my responsibilities were very broad and diverse. It would have been impossible for me to attain in-depth knowledge of E-rate and still fulfill my other traditional responsibilities as Superintendent.” (Declaration of Bruce Anderson, ¶ 17).
- “During my tenure as Superintendent, I believed that MCSD was in full compliance with all state, local and E-rate rules.” (Declaration of Bruce Anderson, ¶ 19).
- MCSD is located in a remote and rural area of Oregon. Due to our rural location and the relatively small size of our school district, there were very few technology and Internet companies that were willing or able to work with the school district at the time. Some companies would not deal with MCSD because MCSD did not have enough (computer) users, and there simply was not enough revenue to be made in MCSD for bigger firms. It was always an uphill battle attracting E-rate service providers to MCSD.” (Declaration of Bruce Anderson, ¶ 21).
- “Additionally, the MCSD Purchasing Policy stated that MCSD could not exclude ABS from submitting a bid just because Mr. Arbogast was a MCSD employee, as long as the potential conflict of interest was disclosed, which it was.” (Declaration of Bruce Anderson, ¶ 27).
- “During Funding Year 2001, after receiving no bids from either the posting of the Form 470 or the newspaper advertisement calling for bids, MCSD asked ABS to bid on an E-rate eligible high speed internet project for MCSD.” (Declaration of Bruce Anderson, ¶ 32).
- “At the time, I did not know that it would be an E-rate rules violation for ABS to bid on E-rate products and services. To my knowledge, no one within MCSD knew that this was a problem. I believed MCSD was in compliance with Oregon and MCSD policy, and was not

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aware of any other rule that would prohibit this. So, the MCSD Board and I evaluated the bids received and chose ABS as the vendor for the high speed internet access project.” (Declaration of Bruce Anderson, ¶ 34).

8) Conclusion.

Other than the *per se* rule violation for FY2001 related to the ABS contract, about which the School District was unaware at that time, there is no evidence of any other E-rate rule violations for FY2001, FY2003, and FY2004. Although the School District was unaware of the guidance in the *MasterMind* case, they were aware of the conflict of interest and took all proactive measures required under Oregon law and their procurement guidelines to address the conflict and preserve competitive bidding as required. There is no evidence in the record to support either a theory that the taint from FY2001 carried over to FY2003 or FY2004, or that there was not competitive bidding for contracts with the School District because service providers thought the “fix was in” for Mr. Arbogast. Indeed, the record reflects that many service providers were requested to, and did, bid on contracts during the School District’s competitive bidding processes for each funding year.

Given the lack of evidence of any other rule violations, the most USAC should have sought to recover from the School District is the \$262,705 for the FY2001 contract with ABS. Instead, however, the School District and Morrow Development have been placed in the untenable position of having to prove a negative – that there were no other rule violations for FY2001, FY2003 and FY2004 so that they do not have to return \$3.7 million in funding. The Commission has made clear that it is impermissible to deny funding requests without sufficiently examining whether the Commission’s rules were actually violated due to improper third-party participation in the applicants’ competitive bidding process.²⁰ In the *Academy of Careers* decision, the Commission ruled that USAC cannot “presume” a violation of competitive bidding rules; it must prove violations.²¹ Because there is no evidence in the record of any violation other than the regrettable and unintentional violation in FY2001, with respect to one small contract, there is no legal basis for USAC to seek recovery of any funds other than the \$262,705 value of the ABS contract for FY2001.

Although the School District, in hindsight, recognizes that there was an unintentional yet *per se* rule violation with respect to its FY2001 contract with ABS, a waiver with respect to this violation is warranted based on the Commission’s precedent of granting waivers in similar situations where school personnel with limited E-rate experience unintentionally committed an E-rate violation despite good faith efforts to comply. The record further reflects that there was no intention to defraud the E-rate program and that neither Mr. Arbogast nor ABS made a profit from providing services to the School District.

²⁰ See *Request for Review by Academy of Careers and Technologies, San Antonio, TX, et al.*, Order, 21 FCC Rcd 5348, ¶¶ 1, 6-7 (2006).

²¹ *Id.*, ¶ 6.

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As always, we are available to answer questions and provide additional information.

Respectfully submitted,

/s/

Jennifer L. Richter
Benjamin C. Bartlett
Patton Boggs LLP
2550 M Street, NW
Washington, DC 20037
(202) 457-5666
*Counsel to Morrow County School District
and Morrow Development Corporation*

cc:

Regina Brown
Trent Harkrader
Lisa Hone
Ray Baum
Brian MacDonald
Jayme White
Jeff Michels
Adrian Anderson

EXHIBIT 1

	A	B	C	D	E	F	G	H	I	J	K
1.	FY2001 - Information from USAC Database										
2.	Application Number	FRN	BEN	Applicant State	SPIN	Vendor Name *	486 SSD	Funding Year	Orig Commitment Request	Committed Amount	Total Authorized Disbursement
4	252467	631058 145127		OR	143006136	Christenson Technology Services		2001	\$65,600.00	\$0.00	
5	255066	634155 145127		OR	143023033	Morrow Development Corp	7/1/2001	2001	\$27,000.00	\$27,000.00	
6	252467	631312 145127		OR	143011380	ABS		2001	\$65,600.00	\$0.00	
7	252467	631647 145127		OR	143012855	Telco Wiring and Repair		2001	\$32,800.00	\$0.00	
8	247557	637530 145127		OR	143005231	CenturyLink Qwest Corporation	7/1/2001	2001	\$20,295.00	\$20,295.00	\$14,172.65
9	247557	628321 145127		OR	143005231	CenturyLink Qwest Corporation	7/1/2001	2001	\$8,364.00	\$8,364.00	\$5,598.07
10	247557	628103 145127		OR	143025240	AT&T Mobility	7/1/2001	2001	\$2,460.00	\$1,957.37	\$1,957.27
11	247557	628804 145127		OR	143012974	CenturyTel of Eastern Oregon, Inc.	7/1/2001	2001	\$41,328.00	\$41,328.00	
12	247557	627104 145127		OR	143005231	CenturyLink Qwest Corporation	11/29/2001	2001	\$32,472.00	\$32,472.00	\$19,322.27
13	247557	628701 145127		OR	143012974	CenturyTel of Eastern Oregon, Inc.	7/1/2001	2001	\$16,728.00	\$16,728.00	\$15,347.95
14	247557	629069 145127		OR	143001177	Shared Communications, Inc.	7/1/2001	2001	\$15,744.00	\$15,744.00	\$3,427.18
15	254806	633208 145127		OR	143011380	ABS **	7/1/2001	2001	\$262,705.04	\$0.00	\$262,705.04
16	254806	633073 145127		OR	143023033	Morrow Development Corp	7/1/2001	2001	\$1,145,376.00	\$0.00	\$1,145,376.00
17	255066	633925 145127		OR	143006136	Christenson Technology Services	7/1/2001	2001	\$27,000.00	\$27,000.00	\$27,000.00
18	255066	634308 145127		OR	143012855	Telco Wiring and Repair	7/1/2001	2001	\$13,500.00	\$13,500.00	\$13,500.00
19	255066	634017 145127		OR	143004340	Dell Marketing LP	7/1/2001	2001	\$21,600.00	\$21,600.00	\$21,330.13
20	252467	631227 145127		OR	143004340	Dell Marketing LP		2001	\$52,480.00	\$0.00	
21											
22	* Based on the SPIN for each vendor, we inserted the column containing the vendor names into the chart generated by the USAC database.										
23											
24	** The funding request for \$262,705.04 was the value of the School District's FY2001 contract with ABS. After ABS informed the School District it could not complete the contracted-for project, the School District contracted with Morrow Development for those services instead. The service provider for this funding request changed to Morrow Development after the School District requested a vendor change on October 11, 2001. That request is attached as Exhibit 2.										
25											

WINSTON
& STRAWN
LLP

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Washington, D.C. 20006-3817
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July 21, 2011

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
236 Massachusetts Avenue, NE, Suite 110
Washington, DC 20002

FILED/ACCEPTED
JUL 21 2011
Federal Communications Commission
Office of the Secretary

Re: In the matter of Request for Review by Morrow County School
District of Decision of Universal Service Administrator

CC Docket No. 02-6; CC Docket No. 96-45

Request for Review

Request for Waiver

Applicant Name: Morrow County School Dist 1
Billed Entity Name: Morrow County School Dist 1
Billed Entity Number: 145127
471 Application Numbers: 254806 and 247557
Funding Request Numbers: 633073, 633208, 628103, 627104,
628321, 628701, 628804, and 629069

Dear Secretary Dortch:

This firm represents the Morrow County School District (Oregon) ("MCSD"). On behalf of our client, we hereby supplement our appeal to the Federal Communications Commission ("FCC") regarding the June 28, 2007 decisions of the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC"). We also request a waiver of relevant FCC policy, rules and/or deadlines.

I. PROCEDURAL BACKGROUND

In Commitment Adjustment Letters dated March 8, 2007, USAC notified MCSD that it would seek rescission of \$1.45 million in funds disbursed in Funding Year 2001 for the Funding Request Numbers ("FRNs") cited in those letters. See Ex. 1 (Notification of Commitment Adjustment letters). On April 25, 2007, the MCSD Superintendent, without the benefit of counsel, submitted to USAC written appeals of USAC's Notification of Commitment Adjustment letters. See Ex. 2 (Letters of Appeal from MCSD to USAC re: Notification of Commitment

As noted, MCSD is located in a remote and rural area of Oregon. Due to its rural location and the relatively small student population in the school district, during the early years of E-rate there were very few technology companies that were interested in bidding on MCSD's proposed E-rate projects. *See* Ex. 28 (Anderson Decl. at ¶21). MCSD did not have many computer users, and consequently, did not have the large technology projects that would attract technology companies. During the first few years of the E-rate program, MCSD never received any unsolicited bids in response to its Form 470 postings. *See* Ex. 28 (Anderson Decl. at ¶22).

In order to comply with Oregon state law and MCSD policy, MCSD posted its E-rate call for bids in the local Oregon newspaper. *See* Ex. 28 (Anderson Decl. at ¶23); Ex. 14 (Announcement for call for bids published in Heppner Gazette-Times, January 10, 2001). This method seldom resulted in bid responses. *See* Ex. 28 (Anderson Decl. at ¶23). Hence, MCSD had to affirmatively contact E-rate service providers for bids because in the relevant time period, MCSD always received fewer than the three bids strongly advised by Oregon state law.² *See* Ex. 28 (Anderson Decl. at ¶24); Ex. 20 (Oregon Revised Statute § 279C.414).

6. Faced with a Shortage of Bidders, and Believing in Good Faith that ABS Could Permissibly Bid on MCSD's E-Rate Needs, MCSD Requested Bids from ABS

Faced with a shortage of E-rate service providers that were interested in bidding on MCSD projects, the school district did not have many options if it wanted to participate in the E-rate program. Due to the remote location of the school district, there was a period of time when ABS was the only Cisco-authorized partner in Morrow County. *See* Ex. 28 (Anderson Decl. at ¶25). The fact that ABS was the only Cisco authorized partner was significant because Cisco held the patent for the routers that MCSD required. *See, id.* Hence, as one of the only companies able or willing to provide services to MCSD, ABS was approached by the school district to bid on MCSD's E-rate projects. *See* Ex. 28 (Anderson Decl. at ¶29).

Before placing any bids on behalf of ABS, and to ensure that ABS could permissibly bid on MCSD's E-rate projects, Mr. Arbogast met with MCSD employees including MCSD Business Manager Rhonda Lorenz to discuss the applicable competitive bidding rules in place at the time. *See* Ex. 29 (Lorenz Decl. at ¶14). Mr. Arbogast and Ms. Lorenz reviewed the Oregon Revised Statutes on competitive bidding as well as relevant MCSD policies on conflict of interest and purchasing.³ After these meetings, Ms. Lorenz believed that ABS could properly bid on MCSD projects. *See* Ex. 29 (Lorenz Decl. at ¶15). Ms. Lorenz discussed the issue with Superintendent Anderson, and he saw no prohibition on ABS bidding on E-rate work for MCSD. *See* Ex. 28

² Oregon Revised Statutes § 279C.414 does not require three bids if three quotes are not reasonably available, but does require the contracting agency to make a written record of the effort made to obtain the quotes. USAC rules at the time did not require a minimum number of bids. If one or no bids were received, so that no comparison can be made, the SLD suggested that the applicant prepare a "memo to file" noting the posting of the Form 470 and the lack of competing bids. http://www.e-ratecentral.com/archive/News/News2008/weekly_news_2008_0107.asp.

³ E-rate rules in place at the time (47 C.F.R. §54.504) required compliance with state and local competitive bid requirements. *See* Ex. 21.

FAX 202-282-5100
Ryan Spiegel

DECLARATION OF BRUCE ANDERSON

1. Bruce Anderson, declare under oath, pursuant to 28 U.S.C. § 1746 and 47 C.F.R. § 1.16:

1. I was the Superintendent of the Morrow County School District ("MCSD") from July 1, 1999 until June 30, 2002, when I retired. I am a resident of the State of Oregon and am more than 18 years of age.
2. I make this Declaration based upon facts within my personal knowledge and a review of relevant records of the MCSD.
3. After being drafted into the U.S. military, I worked for several years in a series of small (at the time) towns in Northern California. I was an agriculture instructor, a vocational educator in Modesto, California; the assistant to the Superintendent in Shasta County, California; and a School Administrator in Redding, California.
4. Then, I worked as a Superintendent in Oregon public schools for 23 years, from 1979 to 2002. I held the following Superintendent positions: Adrian, Oregon from 1979-1982; Colton, Oregon from 1983-1988; Tillamook County, Oregon from 1988-1992; Crook County, Oregon from 1992-1999; and finally, Morrow County, Oregon from 1999-2002. All of these school districts were, at the time, small and relatively rural.
5. I retired from MCSD in 2002, and am still retired.

Hiring of Nate Arbogast

6. Mr. Arbogast was hired by MCSD in 1996, which was before I became Superintendent in 1999. The then-current MCSD Superintendent, Charles ("Chuck") Starr hired Mr. Arbogast.
7. Former Superintendent Starr is now deceased.
8. Based on my review of MCSD files, Mr. Arbogast submitted his resume and cover letter in response to an advertisement for the Technology Coordinator position, and in his cover letter, he informed MCSD that he owned his own technology company, Arbogast Business Services ("ABS"). See Exhibit 22 (Letter from Nate Arbogast to Julie Ashbeck, Personnel, MCSD, May 9, 1996).
9. Based on my review of his personnel file, MCSD hired Mr. Arbogast according to normal MCSD procedures. The MCSD Board approved Mr. Arbogast's hiring at the school board meeting of June 10, 1996. See Exhibit 23 (Arbogast Employment Contract, signed by Superintendent Starr on 7/10/96 and by Scott Bauska, Chairman of the Board on 7/8/96).

10. Mr. Arbogast reported to the MCSD Superintendent. Prior to my term as Superintendent, Mr. Arbogast reported to Superintendent Charles Starr, who was the Superintendent from 1996 to 1999.
11. During the time Mr. Arbogast reported to me, from 1999 to 2002, I believed that Mr. Arbogast was extremely qualified for the position he held. He had far more computer experience than anyone else who worked for MCSD. I personally had very little to no expertise in computers, technology or the Internet. My low level of computer literacy was pretty consistent with most public school educators in our part of rural Oregon at that time, which was about 12 years ago.
12. At the time I was Superintendent, I believed that MCSD was lucky to have anyone on staff who was as knowledgeable about computers as Mr. Arbogast. At the time, qualified individuals such as Mr. Arbogast were very rare in our rural part of the state. Mr. Arbogast was very hard-working, and I believe, truly dedicated to bringing internet technology to MCSD. He was from our part of the state, as was his family, and lived here with his wife and children.
13. When I was hired as Superintendent, I was told that Mr. Arbogast owned his own technology company, ABS.

E-rate

14. At the time I became MCSD Superintendent in 1999, MCSD was already participating in the E-rate program. E-rate was a new program, having just started the year before, in 1998.
15. The first time MCSD participated in the E-rate program was in 1998, the year before I was hired as Superintendent. The first year MCSD participated in E-rate was about two years after Mr. Arbogast was hired by MCSD as Technology Coordinator.
16. From my perspective, E-rate was a very complex program, and very few of us in the public schools in our part of Oregon knew much about it. When I resigned from my prior Superintendent position in Crook County School District, Oregon, they had not yet begun to participate in E-rate, or if they did, I was not involved in the process. Crook County, Oregon was also a rural school district.
17. As Superintendent of MCSD, I functioned as the school district's Chief Executive Officer and had general supervisory responsibilities over all schools and employees. As such, my responsibilities were very broad and diverse. It would have been impossible for me to attain in-depth knowledge of E-rate and still fulfill my other traditional responsibilities as Superintendent. Thus, I, and everyone else at MCSD relied heavily on Mr. Arbogast, as Technology Coordinator, for his knowledge of the E-rate program.

18. I had confidence in Mr. Arbogast's knowledge of E-rate, and believed that Mr. Arbogast tried to understand and keep MCSD informed of the evolving E-rate rules.
19. During my tenure as Superintendent, I believed that MCSD was in full compliance with all state, local and E-rate rules.
20. One of Mr. Arbogast's tasks as MCSD Technology Coordinator was to assess the technology needs for MCSD each year. Another task was to fill out and submit MCSD's Forms 470. It only made sense that Mr. Arbogast was listed as MCSD's contact person on the Form 470. He was the most knowledgeable person at MCSD regarding MCSD's technology plan, and he was MCSD's Technology Coordinator, and the MCSD employee responsible for day-to-day E-rate activities. It would not have made sense for MCSD to list another MCSD employee as the Form 470 contact person.
21. MCSD is located in a remote and rural area of Oregon. Due to our rural location and the relatively small size of our school district, there were very few technology and Internet companies that were willing or able to work with the school district at the time. Some companies would not deal with MCSD because MCSD did not have enough (computer) users, and there simply was not enough revenue to be made in MCSD for bigger firms. It was always an uphill battle attracting E-rate service providers to MCSD.
22. During the first few years of the E-rate program, MCSD never received any bids in response to its Form 470s.
23. In compliance with Oregon state law and MCSD policy, MCSD included a call for bids for E rate eligible products and services in the local newspaper. This method seldom resulted in bid responses.
24. To comply with Oregon state law on purchasing, and in order to ensure that MCSD received the best prices, if three bids were not received, MCSD would contact eligible Service Providers to request a quote. See Exhibit 20 (Oregon Revised Statutes § 279C.414). Mr. Arbogast performed this role.
25. When the E-rate program began in 1998, ABS was the only Cisco-authorized partner in Morrow County. At the time, Cisco held the patent for the routers required by MCSD. Additionally, as noted, there were very few technology companies willing or able to bid on MCSD work.
26. At the time, Oregon law and MCSD policy both provided the procedures required when a MCSD employee sought to contract with the school district. The employee is required to publicly announce the conflict of interest and exclude himself from any decision-making responsibility related to the requested products and/or services. Mr. Arbogast followed this procedure for bids submitted by ABS.

27. Additionally, the MCSD Purchasing Policy stated that MCSD could not exclude ABS from submitting a bid just because Mr. Arbogast was a MCSD employee, as long as the potential conflict of interest was disclosed, which it was. *See Exhibit 9 (Morrow County School District policy, "District Purchasing", paragraph 12, adopted 10/12/98).*
28. I discussed the issue of whether ABS could permissibly bid on MCSD E-rate work with Rhonda Lorenz, the MCSD Business Manager. We agreed that there was no prohibition on ABS bidding on E-rate work or non-E-rate work for MCSD.
29. As such, MCSD solicited quotes and bids from ABS for both E-rate eligible and non-E-rate eligible products and services. Mr. Arbogast informed the County School District Board of the potential conflicts of interest and MCSD made all necessary efforts to exclude Mr. Arbogast from the bid reading and selection process. *See Exhibit 26 (August 20, 2001 Minutes from Executive Session Board Meeting, Nate Arbogast's Presentation to the Board).*
30. At the time, I reviewed documents from ABS that proved to my satisfaction that ABS was not making a profit on the E-rate products/services it provided to MCSD.
31. At all times during my tenure as MCSD Superintendent, MCSD's E-rate competitive bidding process, including vendor selection and contract award decisions, was ultimately controlled by me in my role as the MCSD Superintendent and the Morrow County School District Board. At no time did I or MCSD relinquish control of the bidding process to Mr. Arbogast. Mr. Arbogast was an employee of MCSD who reported to me. Although Mr. Arbogast prepared the E-rate paperwork and performed the legwork due to his position as MCSD's Technology Coordinator, he was not the decision maker on vendor selection or contract awards.

Funding Year 2001

32. During Funding Year 2001, after receiving no bids from either the posting of the Form 470 or the newspaper advertisement calling for bids, MCSD asked ABS to bid on an E-rate eligible high speed internet project for MCSD.
33. In Funding Year 2001 the bid received from ABS was the lowest, followed by the bid received from Morrow Development Corporation ("MDC"). MCSD also solicited bids from Qwest and UUNET.
34. At the time, I did not know that it would be an E-rate rules violation for ABS to bid on E-rate products and services. To my knowledge, no one within MCSD knew that this was a problem. I believed MCSD was in compliance with Oregon and MCSD policy, and was not aware of any other rule that would prohibit this. So, the MCSD Board and I evaluated the bids received and chose ABS as the vendor for the high speed internet access project.

35. On January 18, 2001, MCSD filed a Form 471 for Funding Year 2001, which included the contract for high speed internet with ABS. *See Exhibit 18 (MCSD Funding Year 2001 Forms 471).*
36. Before completing any of the contracted-for services, ABS informed MCSD that it would not be able to complete the project. My understanding was that ABS was not big enough, with enough capital to do all of what MCSD needed.
37. MCSD sought out a replacement company for the high-speed internet access project. MDC was the only interested company able to meet the school district's needs. On August 20, 2001, MCSD entered into an agreement with MDC to complete the high speed internet access project. *See Exhibit 30 (Agreement between MCSD and MDC for High Speed Internet Access Project).*
38. On October 11, 2001, MCSD contacted USAC requesting a SPIN change for the high speed internet access project from ABS to MDC. *See Exhibit 16 (Letter from MCSD to USAC re: Spin Correction Request).*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on, 7-18, 2011.

A handwritten signature in cursive script, appearing to read "Bruce Anderson", written over a horizontal line.

Bruce Anderson

changed for producers'

scheduling conflicts, as been changed for the Ag Producers class, listed in the Blue Community College schedule of classes. has been rescheduled on Thursday, Feb. 6 at 4-7 p.m. each at the location, Heppner, remain the same. The course is designed for the farmer who wants to use and manipulate spreadsheets. This hands-on will start with basic and spreadsheet and continue to spreadsheets for farm use. It will also use templates available for farm use. The class is \$30. Class reduced for enrolled farm business students. Class size so pre-registration is

Anne Morter, BMCC for south Morrow 422-7040, for more or to enroll.

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schools lists its schedule of activities:
Elementary School
Jan. 11-end of nine
12-no school;
Jan. 15-no school
ther King, Jr. Day);
Jan. 18-Writing
n.;
Jan. 19-school is in
Friday "Bad Hair

PUBLIC NOTICE STATEMENT OF NONDISCRIMINATION

Umatilla Electric Cooperative has filed with the Federal Government a Compliance Assurance in which it assures the Rural Electrification Administration that it will comply fully with all requirements of Title VI of the Civil Rights Act of 1964 and the rules and regulations of the Department of Agriculture issued thereunder, to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participating in, be denied the benefits of, or be otherwise subjected to discrimination in the conduct of its program and the operation of its facilities. Under this assurance, this organization is committed not to discriminate against any person on the ground of race, color or national origin in its policies and practices relating to applications for service, use of any of its facilities, attendance at and participation in any meetings of Beneficiaries and Participants in the conduct of the operations of this organization. Any person who believes himself, or any specific class of individuals, to be subjected by this organization to discrimination prohibited by Title VI of the Act and the rules and regulations issued thereunder may, by himself, or a representative, file with the Secretary of Agriculture, Washington, D.C., 20250, or the Rural Utilities Service, Washington, D.C., 20250, or this organization, or all, a written complaint. Such complaint must be filed not later than 90 days after the alleged discrimination, or by such later date to which extends the time for filing. Identity of complainants will be kept confidential except to the

FAX SERVICE

Send or Receive
Heppner Gazette-Times
676-9211

PUBLIC NOTICE ANNOUNCEMENT FOR CALL FOR BIDS

Bids for High Capacity Internet Service for Morrow County School District will be received at the District Office, 270 W Main, Lexington, Or 97839 until 2:00 p.m., January 12, 2001. At this time, all bids will be publicly read aloud. Bid documents may be obtained at the District Office in Lexington, OR, Monday through Friday from 8:00 a.m. until 4:30 p.m. Scope of work called for in this project shall include, but is not limited to all necessary crafts required by the nature of the specific project. Morrow County School District may reject any bids not in compliance with all prescribed public bidding procedures and requirements and may reject for good cause any and all bids upon a finding of the district that it is in the public interest to do so.
Bruce N. Anderson
Superintendent,
Morrow County School District
Published: January 10, 2001

PUBLIC NOTICE
NOTICE OF REVENUE
BOND AUTHORIZATION
NOTICE IS HEREBY GIVEN that the Board of Directors of the Morrow County Health District, Morrow County, Oregon (the "District"), adopted Resolution No. 50-1200 on December 21, 2000 (the "Resolution"), authorizing the issuance of revenue bonds. The bonds will be issued to finance a portion of the costs of (1) refinancing certain outstanding obligations of the District previously incurred by the District to pay operation

FAX PAPER

Gazette-Times • 676-9228

PUBLIC NOTICE

MORROW COUNTY
LAND USE HEARING
THE MORROW COUNTY
PLANNING COMMISSION will hold the following hearing of public interest on Monday, January 22, 2001, at 7:30 p.m. at the Morrow County School District Building in Lexington, Oregon.

Second of Three Public Hearings: Conditional Use Request CUP-S-155 and Comprehensive Plan Amendment, Miller & Sons Excavating, applicant, Marvin Padberg, owner. Property is described as tax lot 3501 of Assessor's Map 1S 24 and is located four miles south of Lone and approximately two miles west of the junction of Rhea Creek Road and Morter Lane. Request is to allow the operation of a rock crusher and stockpiling of crushed rock operation of a portable concrete plant and portable asphaltic batch plant and to amend the Aggregate Resources Inventory of the Comprehensive Plan. Criteria for approval include Zoning Ordinance Section 6.050(9), Oregon Administrative Rule 660-23-180.

Copies of the staff report and all relevant documents will be available on January 12, 2001. For more information please contact Tainra Mabbott or Wendy Kirkpatrick at the Morrow County Planning Department at 922-4624 or 676-5650.
Published: January 10, 2001
Affid

PUBLIC NOTICE

The Emergency Food and Shelter National Board Program

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EXHIBIT 2

October 11, 2001

Spin Correction Request
Schools and Libraries Division
Box 125 - Correspondence Unit
100 S. Jefferson Road
Whippany, NJ 07981

RE: Application Number 254806

To Whom it May Concern:

Morrow County School District would like to request a change of service providers.

One of our service providers – Arbogast Business Services & Computers, Inc., has informed us that they will not be able to perform the work they had contracted for our district. This service provider has a SPIN of 143011380. As of October 11, 2001 none of the work that this provider had contracted for has been completed.

The FRN that Arbogast Business Services and Computers, Inc. had contracted for was:

FRN #	Pre-Discount Cost	Discounted Cost	Total Pre-Discount Completed
633208	\$320,372.00	\$262,705.04	\$0.00

We are requesting the following change in service providers for this FRN 633208, from **Arbogast Business Services and Computers** (SPIN#143011380) changed to **Morrow Development Corporation** (SPIN# 143023033). Morrow Development Corporation was the second lowest bidder for this project.

FRN #	Original SPIN	Requested SPIN	New SPIN Name	Pre-Discount Amt.
633208	143011380	143023033	Morrow Development Corporation	\$320,372.00

If you have any questions please contact us as soon as possible so that we may proceed with this contract before the deadline.

Sincerely,

Nate Arbogast
Technology Coordinator
NA/ts

Copy

EXHIBIT 3

	A	B	C	D	E	F	G	H	I	J	K
1	FY2002 - Information from USAC Database										
2											
3	Application Number	FRN	BEN	Applicant State	SPIN	Venor Name *	486 SSD	Funding Year	Orig Commitment Request	Committed Amount	Total Authorized Disbursement
4	319037	847293	145127	OR	143006136	Christenson Technology Services		2002	\$64,800.00	\$0.00	
5	319037	847362	145127	OR	143004340	Dell Marketing LP		2002	\$51,840.00	\$0.00	
6	319037	847128	145127	OR	143001157	CenturyLink Qwest Communications Company, LLC		2002	\$64,800.00	\$0.00	
7	319037	847439	145127	OR	143011380	ABS		2002	\$64,800.00	\$0.00	
8	319037	847492	145127	OR	143012855	Telco Wiring and Repair		2002	\$64,800.00	\$0.00	
9	319330	848536	145127	OR	143012855	Telco Wiring and Repair		2002	\$27,000.00	\$0.00	
10	319330	848581	145127	OR	143001157	CenturyLink Qwest Communications Company, LLC		2002	\$27,000.00	\$0.00	
11	319330	848346	145127	OR	143006136	Christenson Technology Services		2002	\$27,000.00	\$0.00	
12	319330	848387	145127	OR	143004340	Dell Marketing LP		2002	\$21,600.00	\$0.00	
13	319330	848453	145127	OR	143011380	ABS		2002	\$27,000.00	\$0.00	
14	319456	851063	145127	OR	143011380	ABS		2002	\$259,501.32	\$0.00	
15	319456	850964	145127	OR	143023033	Morrow Development Corp		2002	\$1,590,192.00	\$0.00	
16	310842	841986	145127	OR	143005231	CenturyLink Qwest Corporation		2002	\$8,262.00	\$0.00	
17	310842	841721	145127	OR	143025240	AT&T Mobility		2002	\$3,645.00	\$0.00	
18	310842	842121	145127	OR	143012974	CenturyTel of Eastern Oregon, Inc.		2002	\$40,824.00	\$0.00	
19	310842	842180	145127	OR	143001177	Shared Communications, Inc.		2002	\$17,010.00	\$0.00	
20	310842	842208	145127	OR	143005231	CenturyLink Qwest Corporation		2002	\$19,440.00	\$0.00	
21	310842	842047	145127	OR	143012974	CenturyTel of Eastern Oregon, Inc.		2002	\$17,982.00	\$0.00	
22											
23	* Based on the SPIN for each vendor, we inserted the column containing the vendor names into the chart generated by the USAC database.										



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2002-2003

January 22, 2003

Bruce Anderson
Morrow County School District
P.O.Box 368
Lexington, OR 97839

Re: Billed Entity Number: 145127
471 Application Number: 319037
Funding Request Number(s): 850964, 851063
Your Correspondence Dated: June 27, 2002

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2002 Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 850964, 851063
Decision on Appeal: **Denied in full**

- In your letter of appeal you have stated that the SLD's conclusion that service provider information is included on your Form 470 # 910380000374969 is materially incorrect. The contact person listed on Form 470 # 910380000374969, Mr. Nate Arbogast, is a school district employee and represents the district as Technology Coordinator. In this capacity Mr. Arbogast is responsible for completion of all E-rate documentation. At no time during the E-rate process for Funding Year 2002 has Mr. Arbogast ever worked for or represented a service provider while serving his job duties as Technology Coordinator. You acknowledge that Mr. Arbogast is formerly a part owner of ABS Computers, which at the time this Form 470 was filed, was owned by Mr. Arbogast's spouse, Mrs. Chandra Arbogast. Mr. Arbogast has ceased his involvement with ABS as of 8/01/2002, and the company has fully ceased operations as of 4/26/2002. You further state that due to the district's location, ABS is the only entity located within the county authorized to sell specific products (Cisco) to the district. Mr. Arbogast has openly declared the conflict of interest to his supervisor,

has worked at all times with another employee to solicit quotes, and has no final authority to award contracts. You assert that the district has followed applicable state, local, and SLD guidelines and have quoted SLD instructions, "Applicants must comply with ant applicable state or local requirements when participating in the competitive bidding process...". While the district tries to limit situations in which a conflict of interest may arise, the rural nature and demographics of your area preclude that there are instances where this will occur. In such cases, state and local procedures are observed. As the contact persons relationship to his spouse is not evidence in itself of a competitive bidding violation, and the district has followed the State of Oregon Public Contracting law which establishes clear precedent and ethical procedures for handling situations where an employee may be invlover or have knowledge of a conflict, you have urged the SLD to reconsider this decision. You have also included a letter of explanation from Mr. Nate Arbogast with your appeal.

- Information obtained during the review of your FCC Forms 471 indicates that Mr. Nate Arbogast was the contact person for the Form 470 cited on the funding request. The FCC Form 498 for ABS Computers. (ABS) indicates that its SLD contact is Nate Arbogast .
- USAC has not received a revised FCC Form 498 from ABS requesting that the SLD contact be changed from Nate Arbogast .
- FCC rules require applicants to seek competitive bids and in selecting a service provider to carefully consider all bids.¹ FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements.² In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeals decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470 and MasterMind participated in the competitive bidding process initiated by the FCC Form 470.³ The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied.⁴ Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone and fax numbers, and email address.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment, and preventing unfair competitive advantage.⁵ A competitive bidding violation and conflict of interest exists when an applicant's consultant, who is involved in determining the services sought by the applicant and who is involved in the selection

¹ See 47 C.F.R. §§ 54.504(a), 54.511(a).

² See 47 C.F.R. § 54.504(a), (b)(2)(vi).

³ See *In re MasterMind Internet Services, Inc.*, CC Docket 96-45, ¶ 9 (May 23, 2000).

⁴ See *id.*

⁵ See, e.g., 48 C.F.R. § 9.505(a), (b).

of the applicant's service providers, is associated with a service provider that was selected.

- The FCC Forms 471 that were submitted to SLD pursuant to the Form 470 violate FCC competitive bidding requirements because Nate Abrogast's association with ABS and with the school district is a conflict of interest. Neither ABS nor Nate Abrogast have sought to formally change this information. Furthermore, we find that SLD's contact records for ABS Computers show Mr. Abrogast as the contact for ABS Computers with the telephone # of 541-989-8260. As this telephone number is billed to the Morrow County School District per a phone bill you have submitted, this contradicts your assertion that Mr. Abrogast had separated his duties for the district and ABS Computers. You have also argued that the district has followed state and local procurement rules as per SLD requirements, and that these rules allow for district employees or their family members to enter into contracts with the district as service providers. However, FCC rules are clear in that the SLD's requirements are *in addition* to those set forth in state and local procurement laws. Therefore, while the district may be in compliance with state and local procurement laws, it has still violated FCC rules. You have also stated that ABS Computers has ceased its operations as of 4/26/2002 and that you have requested a SPIN change for this service provider months before you received your Funding Commitment Decision Letter. However, the SLD has no record of a request for a SPIN change for any of your Funding Year 2002 Form 471 applications since the filing of this Form 470.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC) via United States Postal Service: FCC, Office of the Secretary, 445-12th Street SW, Washington, DC 20554. If you are submitting your appeal to the FCC by other than United States Postal Service, check the SLD web site for more information. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. **The FCC must RECEIVE your appeal WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER for your appeal to be filed in a timely fashion.** Further information and new options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, www.sl.universalservice.org.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

EXHIBIT 4

	A	B	C	D	E	F	G	H	I	J	K
1	FY2003 - Information from USAC Database										
2											
3	Application Num	FRN	BEN	Applicant State	SPIN	Vendor Name *	486 SSD	Funding Year	Orig. Commitment Request	Committed Amount	Total Authorized Disbursement
4	361855	980359	145127	OR	143023033	Morrow Development Corp	7/1/2003	2003	\$1,570,560.00	\$0.00	\$1,570,560.00
5	363239	985045	145127	OR	143001177	Shared Communications, Inc.	7/1/2003	2003	\$5,321.28	\$5,321.28	\$4,502.05
6	363239	985201	145127	OR	143025240	AT&T Mobility	7/1/2003	2003	\$6,532.03	\$6,532.03	\$5,468.83
7	363239	985212	145127	OR	143005231	CenturyLink Qwest Corporation	7/1/2003	2003	\$6,657.02	\$6,657.02	\$6,657.02
8	363239	993307	145127	OR	143005231	CenturyLink Qwest Corporation		2003	\$4,442.30	\$4,442.30	
9	363239	985160	145127	OR	143012974	CenturyTel of Eastern Oregon, Inc.	7/1/2003	2003	\$17,727.55	\$17,055.55	\$16,886.29
10	364747	993858	145127	OR	143012855	Telco Wiring and Repair	7/1/2003	2003	\$23,932.80	\$23,932.80	\$23,932.80
11	366035	994735	145127	OR	143010553	Uni-Tech Communications, Inc.	7/1/2003	2003	\$66,600.00	\$66,600.00	
12	364747	993956	145127	OR	143005588	CDW Government LLC	7/1/2003	2003	\$10,681.85	\$10,681.85	\$10,681.85
13	364747	993985	145127	OR	143001157	CenturyLink Qwest Communications Company, LLC	7/1/2003	2003	\$21,366.45	\$21,366.45	\$21,366.45
14	364747	994020	145127	OR	143022399	Organization For Educational Technology and Curriculum	7/1/2003	2003	\$2,518.47	\$2,518.47	\$1,653.21
15	364747	993772	145127	OR	143001157	CenturyLink Qwest Communications Company, LLC	7/1/2003	2003	\$29,417.70	\$29,417.70	\$29,417.70
16	364747	993827	145127	OR	143004340	Dell Marketing LP	7/1/2003	2003	\$91,189.31	\$91,189.31	\$86,446.31
17	366035	994429	145127	OR	143023033	Morrow Development Corp	7/1/2003	2003	\$6,277.50	\$0.00	\$6,277.50
18											
19	*Based on the SPIN for each vendor, we inserted the column containing the vendor names into the chart generated by the USAC database										

Morrow County School District

High Speed Internet Access RFP

Bids for High Capacity Internet Service for Morrow County School District will be received at the District Office, 270 West Main, PO Box 368, Lexington, Oregon 97839 until 11:00 a.m., January 17, 2003. At this time, all bids will be publicly read aloud. Bid documents may be obtained at the District Office in Lexington, OR, Monday through Friday from 8:00 a.m. until 4:30 p.m. Scope of work called for in this project shall include, but is not limited to all necessary crafts required by the nature of the specific project. For further information please call Tami Sneddon at 541-989-8202. Morrow County School District may reject any bids not in compliance with all prescribed public bidding procedures and requirements and may reject for good cause any and all bids upon a finding of the district that it is in the public interest to do so.

Please include all local loop, POP, Port, inter and intra lata pricing, construction, equipment and or any other costs for complete end to end provisioning of Internet Access at the requested levels. All pricing should be listed as either "one time non-recurring" or "monthly-recurring".

Quotes for High Speed Internet access are being requested at the following four levels; T1, DS3, OC3, OC12 or greater. Ethernet rates are acceptable, but must be comparable to rates for trunked service.

High Speed Internet Access service must be delivered to all school district sites listed on the "High Speed Internet Access RFP Pricing Matrix". Internet service must be delivered to the appropriate point of demarcation as specified by Morrow County School District. Service levels which may be unavailable should be listed as "unavailable" under the appropriate recurring or non-recurring category. Quotes for which pricing is not included at all levels or for which the service provider has not indicated the availability of such service will not be considered as complete.

High Speed Internet Access RFP Pricing Matrix

SITES:	T1 Cost Non- Recurring	T1 Cost Monthly Recurring	DS3 Cost Non- Recurring	DS3 Cost Monthly Recurring	OC3 Cost Non- Recurring	OC3 Cost Monthly Recurring	OC12 Cost Non- Recurring	OC12 Cost Monthly Recurring
Heppner Elementary 235 E. Stansbury Heppner, OR 97836 (541) 676-9128								
Heppner High School 1 Morgan Street Heppner, OR 97836 (541) 676-9138								
Ione Schools 1 Spring Street Ione, OR 97843 (541) 422-7131								
Riverside High School 210 Boardman Avenue Boardman, OR 97818 (541) 481-2525								
Sam Boardman Elementary 300 West Wilson Lane Boardman, OR 97818 (541) 481-7383								
Columbia Middle Schools 315 East Wyoming Irrigon, OR 97844 (541) 922-5551								
A.C. Houghton Elementary 1105 North Main Avenue Irrigon, OR 97844 (541) 922-3321								
Morrow County								

School District 270 W. Main Lexington, OR 97839 (541) 922-3321								
--	--	--	--	--	--	--	--	--

* Please include pricing for all levels of Internet Access Service. Service Levels which may be unavailable should be clearly marked as “unavailable or n/a”.

TO: Heppner Gazette Times
FROM: Tami Sneddon, Technology Secretary
DATE: November 27, 2002
RE: Public Notice

Bill to:
Purchase Order # P1589
Morrow County School District
PO Box 368
Lexington, OR 97839
541-989-8202, ext. 2019

Please publish once on December 4, 2002.

ANNOUNCEMENT OF CALL FOR BIDS:

Bids for High Capacity Internet Service for Morrow County School District will be received at the District Office, 270 West Main, PO Box 368, Lexington, Oregon 97839 until 11:00 a.m., January 7, 2003. At this time, all bids will be publicly read aloud. Bid documents may be obtained at the District Office in Lexington, OR, Monday through Friday from 8:00 a.m. until 4:30 p.m. Scope of work called for in this project shall include, but is not limited to all necessary crafts required by the nature of the specific project. For further information please call Tami Sneddon at 541-989-8202. Morrow County School District may reject any bids not in compliance with all prescribed public bidding procedures and requirements and may reject for good cause any and all bids upon a finding of the district that it is in the public interest to do so.

Jack H. Crippen, Ph.D.
Superintendent
Morrow County School District

Morrow County School District

JACK H. CRIPPEN, Ph.D.
Superintendent

P. O. Box 368
Lexington, OR 97839
Phone (541)989-8202
Fax (541)989-8470

RHONDA LORENZ
Deputy Clerk
Business Manager

JULIE ASHBECK
Administrative/Board Secretary

January 27, 2003

Gary Neal
Morrow Development Corporation
PO Box 200
Boardman, OR 97818

Dear Gary:

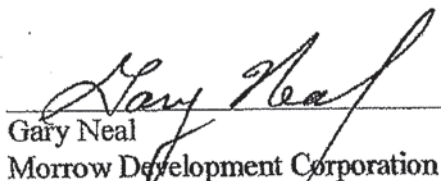
After reviewing your bid for the OC 12 High Speed Internet access and installation, we have accepted your bid in the amount of \$1,963,200.00. We are awarding you a contract based on your bid and contingent upon availability of funding.

We look forward to working with you.

Sincerely,



Jack H. Crippen Ph. D.
Superintendent



Gary Neal
Morrow Development Corporation

1-28-03
Date

Morrow County School District

JACK H. CRIPPEN, Ph.D.
Superintendent/Clerk

P. O. Box 368
Lexington, OR 97839
Phone (541)989-8202
Fax (541)989-8470

RHONDA LORENZ
Deputy Clerk
Business Manager

ULIE ASHBECK
Administrative/Board Secretary
Personnel Director

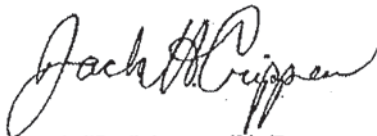
Year 6
2003-2004

Morrow Development Corporation
Attn: Gary Neal
PO Box 200
Boardman, OR 97818

Dear Mr. Neal:

I write to confirm our previous conversation and correspondence regarding Morrow County School District's intent to award Morrow Development Corporation a contract for monthly OC 12 high speed internet access and installation costs for eight sites. This award is based on Morrow Development Corporation's binding offer to provide these items to Morrow County School District at the price of \$1,963,200.00. As you know, this contract award is wholly contingent on Morrow County School District's ability to obtain funding. Morrow Development Corporation's binding offer will remain open until a final funding decision is reached, no later than June 30, 2004.

Sincerely,



Jack H. Crippen, Ph.D.

Morrow County School District

Three Price Bids

Item and Description:

Monthly OC 12 High Speed Internet Access and installation costs for 8 sites.

Specifications supplied by the District ☒ yes ☐ no

Supplier:

☒ (1) **Morrow Development Corporation** \$ 1,963,200.00
Address: PO Box 200, Boardman, OR 97818 Phone: 541-481-2679

Contact person: Gary Neal, Registered Officer

(2) **Centurytel** \$ _____ Note: Did not quote OC 12 Internet Access
because OC12 service unavailable.
Phone 888-665-4146

Contact person: Jon R. Farthing, Account Manager

(3) **Qwest** \$ _____ Note: Did not quote OC 12 Internet Access
because OC 12 service unavailable.
Address: 421 SW Oak Street, Portland, OR 97204

Contact person: Mark Kaczmarek, Account Manager

Comments: Only received one quote for OC 12 Internet Access. All other vendors did not have services available at the OC 12 level.

District representative securing quotations: Jami Sneddon 1/17/2003
Name Date

Above Contract # C0304-01 awarded to Morrow Development Corporation.

Jack H. Crippen Ph.D. 1/28/03
Jack H. Crippen, Ph.D. Date
Superintendent

Morrow County School District

JACK H. CRIPPEN, Ph.D.
Superintendent/Clerk

P. O. Box 368
Lexington, OR 97839
Phone 541-989-8202
Fax 541-989-8470

RHONDA LORENZ
Business Manager
Deputy Clerk

JULIE ASHBECK
Administrative/Board Secretary
Personnel Director

JACK JOHNS
Director of Programs

Year 6
2003-2004

Telco Wiring & Repair, Inc.
Attn: Dusty Powers
PO Box 2503
Pasco, WA 99302

Dear Mr. Powers:

I write to confirm our previous conversation regarding Morrow County School District's intent to award Telco Wiring & Repair a contract for PBX, modules and labor for installation and networking the telephone system. This award is based on Telco's binding offer to provide these items to Morrow County School District at the price of \$26,592.00. As you know, this contract award is wholly contingent on Morrow County School District's ability to obtain funding. Telco Wiring & Repair's binding offer will remain open until a final funding decision is reached, no later than June 30, 2004.

Sincerely,



Jack H. Crippen, Ph.D.

Morrow County School District
Three Price Quotations*

Item and Description: for PBX's (telephone system) for
A.C. Houghton Elementary and Sam Boardman Elementary

- 2 each Merlin Magbc processor
- 8 each 016016 ETR Modules
- 2 each 412 TDL Module
- 2 each 800 GS/LS-ID Line Module
- 2 each 016 Tip/Ring
- 4 each DSI Modules
- 2 each 4424LD+ Attendant Console with DSS
- 2 each expansion cabinet

Specifications supplied by the District ☒ yes ☐ no

Supplier:

(1) Telco Wiring & Repair, Dusty Powers \$ 26,592.00

Phone # 509-547-4300

(2) Cerium Networks - Todd Jones \$ 28,656.40

Phone # 877-255-5373

(3) I Buy Lucent \$ 40,548.00

Phone# 800-451-2100

Comments: award to lowest quote: Telco

District representative securing quotations: Jamie Aneddson 1/30/03
Name Date

Above quote awarded to Telco contingent upon availability of funding.


Jack H. Crippen, Ph.D.
Superintendent

DISTRICT OFFICE

Morrow County School District

JACK H. CRIPPEN, Ph.D.
Superintendent/Clerk

JULIE ASHBECK
Administrative/Board Secretary
Personnel Director

P. O. Box 368
Lexington, OR 97839
Phone (541)989-8202
Fax (541)989-8470

RHONDA LORENZ
Deputy Clerk
Business Manager

Year 6
2003-2004

Qwest Corporation
Attn: Jerry Chinn
421 SW Oak Street, Rm 720
Portland, OR 97204

Dear Mr Chinn:

I write to confirm our previous conversation regarding Morrow County School District's intent to award Qwest Corporation a contract for the videoconference multiple control unit and 2 Cisco IP/VC 3510 video conferencing units. This award is based on Qwest's binding offer to provide these items to Morrow County School District at the price of \$23,740.50. As you know, this contract award is wholly contingent on Morrow County School District's ability to obtain funding. Qwest's binding offer will remain open until a final funding decision is reached, no later than June 30, 2004.

Sincerely,



Jack H. Crippen, Ph.D.

Morrow County Schools, in partnership with families and communities, provide each student the opportunity to develop values, knowledge, skills and self-confidence to become life-long learners and responsible citizens.

Morrow County School District
Three Price Quotations*

Item and Description:

MCU (Multipoint Control Unit)

2 each Cisco IP/VC 3510 Mfg# CIS-IPVC-3510- MCU - Video Conferencing Unit

Specifications supplied by the District ☒ yes ☐ no

Supplier:

(1) Qwest, Jerry Chinn \$11870.25 each x 2 = \$23,740.50

Phone # 503-425-5275

(2) Education Technology, Larry Wilkins \$11,970.00 each x 2 = \$23,940.00

Phone # 1-800-456-8518

(3) CDW-G, Riley Rhodes \$14,052.48 each x 2 = 28,105.16

Phone# (866)222-4918

Comments: Award given to lowest quote: Qwest

District representative securing quotations: Timi Snedden 1/29/03
Name Date

Above quote awarded to Qwest contingent upon availability of funding.

Jack H. Crippen Ph.D.
Jack H. Crippen, Ph.D.
Superintendent

Morrow County School District

JACK H. CRIPPEN, Ph.D.
Superintendent/Clerk

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Personnel Director

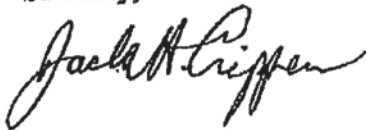
Year 6
2003-2004

Qwest Corporation
Attn: Jerry Chinn
421 SW Oak Street, Rm 720
Portland, OR 97204

Dear Mr Chinn:

I write to confirm our previous conversation regarding Morrow County School District's intent to award Qwest Corporation a contract for 6 Cisco 2950-48, Ethernet switches, 4 LX gigabit interface connectors, 4 SX gigabit interface connectors 2 ZX gigabit interface connectors, and one 12 G Ethernet switch. This award is based on Qwest's binding offer to provide these items to Morrow County School District at the price of \$32,686.33. As you know, this contract award is wholly contingent on Morrow County School District's ability to obtain funding. Qwest's binding offer will remain open until a final funding decision is reached, no later than June 30, 2004.

Sincerely,



Jack H. Crippen, Ph.D.

Morrow County Schools, in partnership with families and communities, provide each student the opportunity to develop values, knowledge, skills and self-confidence to become life-long learners and responsible citizens.

Morrow County School District

Three Price Quotations*

Item and Description:

Quantity 6 - Cisco 2950-48 Ethernet switches
Quantity 4 - Cisco LX GBIC Gigabit Interface Connectors
Quantity 4 - Cisco SX GBIC Gigabit Interface Connectors
Quantity 2 - Cisco ZX GBIC Gigabit Interface Connectors
Quantity 1 - Cisco 3550-12G Ethernet Switches

Specifications supplied by the District ☒ yes ☐ no

Supplier:

(1) Christenson Electric - Robin Currin \$ _____ Did not want to quote

Phone # (503) 419-3300

(2) QWEST - Jerry Chinn \$32,686.33

Phone # (503) 425-5275

(3) CDW-G - Riley Rhodes \$ 36,422.78

Phone# (312) 705-9531

(4) ETI Networking Group - Larry Wilkin \$36,180.00

Phone# 1-800-456-8518

Comments: Award to low quote: Qwest

District representative securing quotations: Terri Oueddon 1/21/03
Name Date

Above quote awarded to Qwest contingent upon availability of funding.

Jack H. Crippen, Ph.D.
Jack H. Crippen, Ph.D.
Superintendent

Morrow County School District

JACK H. CRIPPEN, Ph.D.
Superintendent/Clerk

JULIE ASHBECK
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Personnel Director

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RHONDA LORENZ
Deputy Clerk
Business Manager

Year 6
2003-2004

Uni-Tech Communications
PO Box 1089
Hermiston, OR 97838

Dear Uni-Tech Communications:

I write to confirm our previous conversation regarding Morrow County School District's intent to award Uni-Tech Communications a contract for LAN/Network wiring for two schools. This award is based on Uni-Tech Communications' binding offer to provide these items to Morrow County School District at the price of \$74,000.00. As you know, this contract award is wholly contingent on Morrow County School District's ability to obtain funding. Uni-Tech Communications' binding offer will remain open until a final funding decision is reached, no later than June 30, 2004.

Sincerely,



Jack H. Crippen, Ph.D.

Morrow County Schools, in partnership with families and communities, provide each student the opportunity to develop values, knowledge, skills and self-confidence to become life-long learners and responsible citizens.

Morrow County School District
Three Price Quotations*

Item and Description:

LAN/Network Wiring for AC Houghton Elementary
and Sam Boardman Elementary

Specifications supplied by the District ☒ yes ☐ no

Supplier:

(1) Morrow Development Corp \$40,000.00 per site x 2 sites = \$80,000

Address: 541-481-7678

(2) Uni-Tech Communications \$37,000.00 per site x 2 sites = \$74,000.00

Address: 541-567-8923

(3) Telco Wiring & Repair, Inc \$37,308.00 per site x 2 sites = \$74,616.00

Address: 509-547-4300

Comments: Award given to lowest quote: Uni-Tech

District representative securing quotations: Jami Oredon 1/31/03
Name Date

Above quote awarded to Uni-Tech Communications contingent upon availability of funding.

Jack H. Crippen Ph.D.
Jack H. Crippen, Ph.D.
Superintendent

Morrow County School District

JACK H. CRIPPEN, Ph.D.
Superintendent/Clerk

P. O. Box 368
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RHONDA LORENZ
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Business Manager

JULIE ASHBECK
Administrative/Board Secretary
Personnel Director

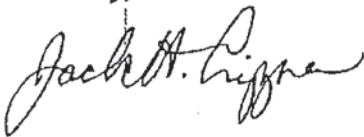
Year 6
2003-2004

Morrow Development Corporation
Attn: Gary Neal
PO Box 200
Boardman, OR 97818

Dear Mr. Neal:

I write to confirm our previous conversation regarding Morrow County School District's intent to award Morrow Development Corporation a contract for fiber transceivers. This award is based on Morrow Development Corporation's binding offer to provide these items to Morrow County School District at the price of \$6,975.00. As you know, this contract award is wholly contingent on Morrow County School District's ability to obtain funding. Morrow Development Corporation's binding offer will remain open until a final funding decision is reached, no later than June 30, 2004.

Sincerely,



Jack H. Crippen, Ph.D.

Morrow County School District
Three Price Quotations*

Item and Description: Fiber Transceivers

Quantity 3 - iMediaCenter/18x-AC 110 - Transceiver chasis

Quantity 4 - iMediaCenter/8-AC - Transceiver chasis

Quantity 10- iMcV-T1/E1/J1, TP Fiber -SM1310 Plus SC transceiver

Quantity 2 - iMcV-T1/E1/J1, TP Fiber -SM1310/LongSC transceiver

Quantity 3 - Redundant Power Supply

Quantity 4 - Rack mount ears

Specifications supplied by the District ☒ yes ☐ no

Supplier:

(1) IMC Networks \$ 6,975.00

Phone # (949) 465-3337 Michell Levitt, Sales Associate

(2) Computers 4 Sure \$ 8,992.90

Phone # www.computers4sure.com

(3) Morrow Development Corp. \$ 6975.00

Phone# 541-481-2679 Gary Neal

Comments: Award given to Morrow Development
for low quote and history with vendor

District representative securing quotations: Jami Dredman 1/30/03
Name Date

Above quote awarded to Morrow Development Corporation contingent upon availability of funding.


Jack H. Crippen, Ph.D.
Superintendent

0000072000 12:02 PM 041 868 0410 DISTRICT OFFICE

Morrow County School District

JACK H. CRIPPEN, Ph.D.
Superintendent/Clerk

P. O. Box 368
Lexington, OR 97839
Phone (541)989-8202
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RHONDA LORENZ
Deputy Clerk
Business Manager

JULIE ASHBECK
Administrative/Board Secretary
Personnel Director

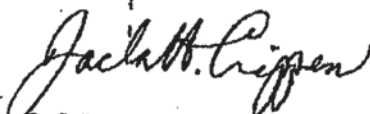
Year 6
2003-2004

CDWG
Attn: Riley Rhodes
National Sales Office
44084 Riverside Parkway
Suite 350
Landsdowne, VA 20176-5102

Dear Mr. Rhodes:

I write to confirm our previous conversation regarding Morrow County School District's intent to award CDWG a contract for eight UPS's for Cisco switches. This award is based on CDWG's binding offer to provide these items to Morrow County School District at the price of \$11,868.72. As you know, this contract award is wholly contingent on Morrow County School District's ability to obtain funding. CDWG's binding offer will remain open until a final funding decision is reached, no later than June 30, 2004.

Sincerely,


Jack H. Crippen, Ph.D.

Morrow County Schools, in partnership with families and communities, provide each student the opportunity to develop values, knowledge, skills and self-confidence to become life-long learners and responsible citizens.

Morrow County School District
Three Price Quotations*

Item and Description:
UPS for Cisco Switches

Specifications supplied by the District ☒ yes ☐ no

Supplier:

(1) CDW G - Riley Rhodes \$1,483.59 each x 8 = \$11,868.72

Address: 312-705-9531

(2) APCC \$1700.00 each x 8 = \$13,600.00

Address: apcc.com

(3) Buy.com \$1,511.99 each x 8 = \$12,959.20

Address: www.buy.com

Comments: Award to lowest quote: CDW-G

District representative securing quotations: Jim McDowd 1/30/03
Name Date

Above quote awarded to CDW-G contingent upon availability of funding.

Jack H. Crippen, Ph.D.
Jack H. Crippen, Ph.D.
Superintendent

Morrow County School District

JACK H. CRIPPEN, Ph.D.
Superintendent/Clerk

JULIE ASHBECK
Administrative/Board Secretary
Personnel Director

P. O. Box 368
Lexington, OR 97839
Phone (541)989-8202
Fax (541)989-8470

RHONDA LORENZ
Deputy Clerk
Business Manager

Year 6
2003-2004

Dell Computer Corporation
One Dell Way
Round Rock, Texas 78682

Dear Dell Computer Corporation:

I write to confirm our previous conversation regarding Morrow County School District's intent to award Dell Corporation through the Oregon State Contract, a contract for two DHCP servers, two domain name servers, and two email servers. This award is based on Dell Computer Corporation's binding offer to provide these items to Morrow County School District at the price of \$101,321.46. As you know, this contract award is wholly contingent on Morrow County School District's ability to obtain funding. Dell Computer Corporation's binding offer will remain open until a final funding decision is reached, no later than June 30, 2004.

Sincerely,



Jack H. Crippen, Ph.D.

Morrow County Schools, in partnership with families and communities, provide each student the opportunity to develop values, knowledge, skills and self-confidence to become life-long learners and responsible citizens.

Morrow County School District
Three Price Quotations*

Item and Description:

2 DHCP Servers
2 Domain Name Servers
2 Email Servers

Specifications supplied by the District ☒ yes ☐ no

Supplier:

(1) Dell \$16,886.91 each x 6 = \$101,321.46

Address: dell.com

(2) IBM \$18,515 each x 6 = \$111,090.00

Address: ibm.com

(3) HP \$18,504.00 each x 6 = \$111,024.00

Address: gem.Compaq.com

Comments: Award given to low bid: Dell
Purchasing off State Contracts

District representative securing quotations: Jami Dredger 1/29/03
Name Date

Above quote awarded to Dell contingent upon availability of funding.

Jack H. Crippen Ph.D.
Jack H. Crippen, Ph.D.
Superintendent

Morrow County School District
Three Price Quotations*

Item and Description:

Windows 2000 Exchange
Server plus client access and licenses
Email Server

Specifications supplied by the District ☒ yes ☐ no

Supplier:

(1) CDW G \$11,393.51

Address: 312-705-9531

(2) Journey Ed.com \$4,427.00

Address: www.journeyed.com

(3) Oregon Educational Technology Consortium \$2,798.30

Address: www.oetc.orgComments: Award to lowest quote: OETCDistrict representative securing quotations: Jami Sneddon 1/31/05
Name Date

Above quote awarded to Oregon Educational Technology Consortium contingent upon availability of funding.

Jack H. Crippen, Ph.D.
Jack H. Crippen, Ph.D.
Superintendent

EXHIBIT 5

[illegible]

Morrow County School District

Wide Area Network Circuits

Bids for Wide Area Network Circuits for Morrow County School District will be received at the District Office, 270 West Main, PO Box 368, Lexington, Oregon 97839 until 11:00 a.m., January 29, 2004. Bid documents may be obtained at the District Office in Lexington, OR, Monday through Friday from 8:00 a.m. until 4:30 p.m. Scope of work called for shall include, but is not limited to all necessary crafts required by the nature of the specific circuits. For further information please call Tami Sneddon at 541-989-8202. Morrow County School District may reject any bids not in compliance with all prescribed public bidding procedures and requirements and may reject for good cause any and all bids upon a finding of the district that it is in the public interest to do so.

Please include all local loop, POP, Port, inter and intra-lata pricing, construction, and or any other costs for complete end to end provisioning of the wide area network circuits at the requested level. All pricing should be listed as either "one time non-recurring" or "monthly-recurring".

Quotes for wide area network circuits are being requested at the following level:

-Gigabit Ethernet

Wide area network circuits must be delivered to all school district sites listed on the "WAN Circuit Pricing Matrix". Circuits must be delivered to the appropriate point of demarcation as specified by Morrow County School District.

Circuits that may be unavailable should be listed as "unavailable" under the appropriate recurring or non-recurring category. Quotes for which pricing is not included or for which the circuit provider has not indicated the availability of such service will not be considered as complete.

Sneddon, Tami

From: Sneddon, Tami
Sent: Tuesday, January 27, 2004 9:28 AM
To: 'Roland, Valerie'; Schwartz, Greg R
Subject: Erate bid

Greg: Once again we are sending a request for bids. Please respond to this request for a bid on Wide Area Network Circuits. If you are unable to provide this service, please respond with "unavailable".

Please respond by 11:00 a.m., Thursday, January 29.

Thank you,

Tami Sneddon
Technology Secretary
Morrow County School District



Wide Area Network
Access.doc

Sneddon, Tami

From: Sneddon, Tami
Sent: Tuesday, January 27, 2004 9:31 AM
To: 'jason.hampton@centurytel.com'
Subject: erate bid

Jason:

Once again we are sending a request for bids. Please respond to this request for a bid on Wide Area Network Circuits. If you are unable to provide this service, please respond with "unavailable".

Please respond by 11:00 a.m., Thursday, January 29.

Thank you,

Tami Sneddon
Technology Secretary
Morrow County School District



Wide Area Network
Access.doc

Sneddon, Tami

From: Sneddon, Tami
Sent: Tuesday, January 27, 2004 9:33 AM
To: 'eileenH@portofmorrow.com'
Subject: bid request

Eileen:

Once again we are sending a request for bids. Please respond to this request for a bid on Wide Area Network Circuits. If you are unable to provide this service, please respond with "unavailable".

Please respond by 11:00 a.m., Thursday, January 29.

Thank you,

Tami Sneddon
Technology Secretary
Morrow County School District



Wide Area Network
Access.doc

Morrow County School District

GEORGE MURDOCK
Superintendent/Clerk

P. O. Box 368
Lexington, OR 97839
Phone 541-989-8202
Fax 541-989-8470

500 Tatone Street
Boardman, OR 97818
Phone 541-481-4202
Fax 541-481-3264

JACK JOHNS
Director of Programs

JULIE ASHBECK
Administrative/Board Secretary
Personnel Director

RHONDA LORENZ
Business Manager
Deputy Clerk

January 29, 2004

Gary Neal
Morrow Development Corporation
PO Box 200
Boardman, OR 97818

Dear Gary:

After reviewing your bid for "Wide Area Network Circuits", we have accepted your bid in the amount of \$936,00.00. We are awarding you a contract based on your bid and contingent upon availability of funding.

The procurement of these services will be dependent upon the following conditions:

1. Final approval of next year's fiscal budget;
2. Contract confirmation by next year's school board;
3. Award of associated E-rate funding

To accept these terms and conditions, please sign below and return to the School District Office.

We look forward to working with you.

Sincerely,


Rhonda Lorenz


Gary Neal
Morrow Development Corporation

1-29-04
Date

Morrow County Schools, in partnership with families and communities, provide each student the opportunity to develop values, knowledge, skills and self-confidence to become life-long learners and responsible citizens.

Morrow County School District

Three Price Quotations*

Item and Description:

Wide area network circuits
Gigabit Ethernet

Specifications supplied by the District ☒ yes ☐ no

Supplier:

(1) Morrow Development Corp. \$936,000.⁰⁰ Firm Quote until (date) _____

Phone # 541-481-7678

Received by: ☐ phone ☒ ^{email} letter ☐ verbal ☐ fax Contact person: Gary Neal

(2) Qwest \$ * Firm Quote until (date) _____

Phone # *unable to provide quote - service unavailable

Received by: ☐ phone ☐ letter ☒ verbal ☐ fax Contact person: _____

(3) Centurytel \$ * Firm Quote until (date) _____

Phone# *unable to provide quote - service unavailable

Received by: ☐ phone ☐ letter ☒ verbal ☐ fax Contact person: _____

Comments: Morrow Development Corp. was the only
entity available to provide service. Contract
is month-to-month.

District representative securing quotations: Jami Snedden 1/29/2004
Name Date

*File this form with purchase order. If three quotations are not available, note under the "comments" section efforts to obtain quotes.

MORROW COUNTY SCHOOL DISTRICT

GEORGE MURDOCK
Superintendent/Clerk

P. O. Box 368
Lexington, OR 97839
Phone 541-989-8202
Fax 541-989-8470

500 Tatone Street
Boardman, OR 97818
Phone 541-481-4202
Fax 541-481-3264

JACK JOHNS
Director of Programs

JULIE ASHBECK
Administrative/Board Secretary
Personnel Director

RHONDA LORENZ
Business Manager
Deputy Clerk

January 29, 2004

Qwest
PO Box 12480
Seattle, WA 98111-4480

To Whom It May Concern:

This letter is to notify you of our decision to contract for local service for Irrigon, Oregon, during the next E-Rate funding year (07/01/04 through 06/30/05).

The procurement of these services will be dependent upon the following conditions:

1. Final approval of next year's fiscal budget;
2. Contract confirmation by next year's school board;
3. Award of associated E-rate funding

We look forward to working with Qwest.

Sincerely,


Rhonda Lorenz

RL/ts

Morrow County School District

Three Price Quotations*

Item and Description:

Local & Long Distance
Irrigon

Specifications supplied by the District ☒ yes ☐ no

Supplier:

(1) Quest (incumbent) \$ 9626.76 Firm Quote until (date) _____

Phone # _____

Received by: ☐ phone ☐ letter ☒ verbal ☐ fax Contact person: _____

(2) Centurytel \$ X Firm Quote until (date) _____

Phone # * Not available in service area.

Received by: ☐ phone ☐ letter ☒ verbal ☐ fax Contact person: _____

(3) Morrow Development \$ A Firm Quote until (date) _____

Phone# * Not available in service area.

Received by: ☐ phone ☐ letter ☒ verbal ☐ fax Contact person: _____

Comments: Contract is month-to-month and Quest
is the only provider of local & long distance coverage
for the area of Irrigon.

District representative securing quotations: Jami Anedden 1/29/2004
Name Date

*File this form with purchase order. If three quotations are not available, note under the "comments" section efforts to obtain quotes.

EXHIBIT 6

WINSTON
& STRAWN
LLP

1700 K Street, N.W.
Washington, D.C. 20006-3817
T: +1 (202) 282-5000
F: +1 (202) 282-5100
www.winston.com

FILED/ACCEPTED

JUL 21 2011

Federal Communications Commission
Office of the Secretary

July 21, 2011

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
236 Massachusetts Avenue, NE, Suite 110
Washington, DC 20002

Re: In the matter of Request for Review by Morrow County School
District of Decision of Universal Service Administrator

CC Docket No. 02-6; CC Docket No. 96-45

Request for Review

Request for Waiver

Applicant Name: Morrow County School Dist 1
Billed Entity Name: Morrow County School Dist 1
Billed Entity Number: 145127
471 Application Numbers: 254806 and 247557
Funding Request Numbers: 633073, 633208, 628103, 627104,
628321, 628701, 628804, and 629069

Dear Secretary Dortch:

This firm represents the Morrow County School District (Oregon) ("MCSD"). On behalf of our client, we hereby supplement our appeal to the Federal Communications Commission ("FCC") regarding the June 28, 2007 decisions of the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC"). We also request a waiver of relevant FCC policy, rules and/or deadlines.

I. PROCEDURAL BACKGROUND

In Commitment Adjustment Letters dated March 8, 2007, USAC notified MCSD that it would seek rescission of \$1.45 million in funds disbursed in Funding Year 2001 for the Funding Request Numbers ("FRNs") cited in those letters. See Ex. 1 (Notification of Commitment Adjustment letters). On April 25, 2007, the MCSD Superintendent, without the benefit of counsel, submitted to USAC written appeals of USAC's Notification of Commitment Adjustment letters. See Ex. 2 (Letters of Appeal from MCSD to USAC re: Notification of Commitment

Marlene H. Dortch, Secretary

July 21, 2011

Page 7

(Anderson Decl. at ¶28) and Ex. 29 (Lorenz Decl. at ¶16). Mr. Arbogast also discussed his potential conflict of interest with Superintendent Anderson and the School Board, and all agreed that the bid was permissible even though Mr. Arbogast was the owner of ABS, because no profit was going in Mr. Arbogast's pocket. *See* Ex. 26 (August 20, 2001 Minutes from Executive Session Board Meeting, Nate Arbogast's Presentation to the Board); Ex. 28 (Anderson Decl. at ¶30). Superintendent Anderson and the involved MCSD employees believed that MCSD was in full compliance with the E-rate competitive bidding requirements, as well as those of MCSD and those provided in the Oregon Revised Statutes. *See* Ex. 28 (Anderson Decl. at ¶34) and Ex. 29 (Lorenz Decl. at ¶15).

As per MCSD policy and Oregon law, Mr. Arbogast, whenever submitting a quote for products or services, was required to declare openly the conflict to his immediate supervisor, work at all times in joint capacity with another employee to solicit such quotes, and have no final authority in the decision to award such contracts. The decision to award contracts was made solely by Mr. Arbogast's immediate supervisor, and/or the Board of Directors. *See* Ex. 9 (MCSD District Purchasing Policy) and Ex. 10 (Oregon Revised Statute 244.120); *See also* Ex. 28 (Anderson Decl. at ¶29-31).

7. USAC Was Aware that ABS Was an E-Rate Service Provider and that Mr. Arbogast Was MCSD's Form 470 Contact

ABS was an E-rate authorized Service Provider for Funding Years 1998, 1999, and 2000. *See* Ex. 8 (Service Provider Annual Certification status for ABS for 1998, 1999, 2000).

However, ABS was not certified as a Service Provider for Funding Years 2001, 2002 or any year thereafter. *See* Ex. 8 (Service Provider Annual Certification status for ABS for 2001 and 2002 showing status of "not received").

MCSD solicited bids from ABS and ultimately awarded the project to ABS. *See* Ex. 28 (Anderson Decl. ¶32 and ¶35). Before MCSD became aware that ABS was ineligible to bid on E-rate services and prior to any disbursements to ABS, ABS informed MCSD that it would not be able to complete the contracted-for services. *See* Ex. 28 (Anderson Decl. ¶36). On August 20, 2001, Morrow Development Corporation ("MDC") was awarded the high speed internet services contract, with the understanding that funding would be obtained for the project. *See* Ex. 30 (Agreement between MCSD and MDC for High Speed Internet Access Project). On October 11, 2001, MCSD wrote a letter to USAC requesting a SPIN change from ABS to MDC. *See* Ex. 16 (Letter from MCSD to USAC re: SPIN Correction Request). USAC did not request the adjustment of funds from MCSD until March 8, 2007. *See*, Ex. 1 (Notification of Commitment Adjustment Letters).

USAC rejected MCSD's funding request for Funding Year 2002. Prior to USAC's denial of MCSD's request, MCSD was completely unaware that it was a per se violation of the E-rate

FAX 202-282-5100
Ryan Spiegel

DECLARATION OF BRUCE ANDERSON

I, Bruce Anderson, declare under oath, pursuant to 28 U.S.C. § 1746 and 47 C.F.R. § 1.16:

1. I was the Superintendent of the Morrow County School District ("MCSD") from July 1, 1999 until June 30, 2002, when I retired. I am a resident of the State of Oregon and am more than 18 years of age.
2. I make this Declaration based upon facts within my personal knowledge and a review of relevant records of the MCSD.
3. After being drafted into the U.S. military, I worked for several years in a series of small (at the time) towns in Northern California. I was an agriculture instructor, a vocational educator in Modesto, California; the assistant to the Superintendent in Shasta County, California; and a School Administrator in Redding, California.
4. Then, I worked as a Superintendent in Oregon public schools for 23 years, from 1979 to 2002. I held the following Superintendent positions: Adrian, Oregon from 1979-1982; Colton, Oregon from 1983-1988; Tillamook County, Oregon from 1988-1992; Crook County, Oregon from 1992-1999; and finally, Morrow County, Oregon from 1999-2002. All of these school districts were, at the time, small and relatively rural.
5. I retired from MCSD in 2002, and am still retired.

Hiring of Nate Arbogast


6. Mr. Arbogast was hired by MCSD in 1996, which was before I became Superintendent in 1999. The then-current MCSD Superintendent, Charles ("Chuck") Starr hired Mr. Arbogast.
7. Former Superintendent Starr is now deceased.
8. Based on my review of MCSD files, Mr. Arbogast submitted his resume and cover letter in response to an advertisement for the Technology Coordinator position, and in his cover letter, he informed MCSD that he owned his own technology company, Arbogast Business Services ("ABS"). See Exhibit 22 (Letter from Nate Arbogast to Julie Ashbeck, Personnel, MCSD, May 9, 1996).
9. Based on my review of his personnel file, MCSD hired Mr. Arbogast according to normal MCSD procedures. The MCSD Board approved Mr. Arbogast's hiring at the school board meeting of June 10, 1996. See Exhibit 23 (Arbogast Employment Contract, signed by Superintendent Starr on 7/10/96 and by Scott Bauska, Chairman of the Board on 7/8/96).

10. Mr. Arbogast reported to the MCSD Superintendent. Prior to my term as Superintendent, Mr. Arbogast reported to Superintendent Charles Starr, who was the Superintendent from 1996 to 1999.
11. During the time Mr. Arbogast reported to me, from 1999 to 2002, I believed that Mr. Arbogast was extremely qualified for the position he held. He had far more computer experience than anyone else who worked for MCSD. I personally had very little to no expertise in computers, technology or the Internet. My low level of computer literacy was pretty consistent with most public school educators in our part of rural Oregon at that time, which was about 12 years ago.
12. At the time I was Superintendent, I believed that MCSD was lucky to have anyone on staff who was as knowledgeable about computers as Mr. Arbogast. At the time, qualified individuals such as Mr. Arbogast were very rare in our rural part of the state. Mr. Arbogast was very hard-working, and I believe, truly dedicated to bringing internet technology to MCSD. He was from our part of the state, as was his family, and lived here with his wife and children.
13. When I was hired as Superintendent, I was told that Mr. Arbogast owned his own technology company, ABS.

E-rate

14. At the time I became MCSD Superintendent in 1999, MCSD was already participating in the E-rate program. E-rate was a new program, having just started the year before, in 1998.
15. The first time MCSD participated in the E-rate program was in 1998, the year before I was hired as Superintendent. The first year MCSD participated in E-rate was about two years after Mr. Arbogast was hired by MCSD as Technology Coordinator.
16. From my perspective, E-rate was a very complex program, and very few of us in the public schools in our part of Oregon knew much about it. When I resigned from my prior Superintendent position in Crook County School District, Oregon, they had not yet begun to participate in E-rate, or if they did, I was not involved in the process. Crook County, Oregon was also a rural school district.
17. As Superintendent of MCSD, I functioned as the school district's Chief Executive Officer and had general supervisory responsibilities over all schools and employees. As such, my responsibilities were very broad and diverse. It would have been impossible for me to attain in-depth knowledge of E-rate and still fulfill my other traditional responsibilities as Superintendent. Thus, I, and everyone else at MCSD, relied heavily on Mr. Arbogast, as Technology Coordinator, for his knowledge of the E-rate program.

18. I had confidence in Mr. Arbogast's knowledge of E-rate, and believed that Mr. Arbogast tried to understand and keep MCSD informed of the evolving E-rate rules.
19. During my tenure as Superintendent, I believed that MCSD was in full compliance with all state, local and E-rate rules.
20. One of Mr. Arbogast's tasks as MCSD Technology Coordinator was to assess the technology needs for MCSD each year. Another task was to fill out and submit MCSD's Form 470. It only made sense that Mr. Arbogast was listed as MCSD's contact person on the Form 470. He was the most knowledgeable person at MCSD regarding MCSD's technology plan, and he was MCSD's Technology Coordinator, and the MCSD employee responsible for day-to-day E-rate activities. It would not have made sense for MCSD to list another MCSD employee as the Form 470 contact person.
21. MCSD is located in a remote and rural area of Oregon. Due to our rural location and the relatively small size of our school district, there were very few technology and Internet companies that were willing or able to work with the school district at the time. Some companies would not deal with MCSD because MCSD did not have enough (computer) users, and there simply was not enough revenue to be made in MCSD for bigger firms. It was always an uphill battle attracting E-rate service providers to MCSD.
22. During the first few years of the E-rate program, MCSD never received any bids in response to its Form 470s.
23. In compliance with Oregon state law and MCSD policy, MCSD included a call for bids for E rate eligible products and services in the local newspaper. This method seldom resulted in bid responses.
24. To comply with Oregon state law on purchasing, and in order to ensure that MCSD received the best prices, if three bids were not received, MCSD would contact eligible Service Providers to request a quote. See Exhibit 20 (Oregon Revised Statutes § 279C.414). Mr. Arbogast performed this role.
25. When the E-rate program began in 1998, ABS was the only Cisco-authorized partner in Morrow County. At the time, Cisco held the patent for the routers required by MCSD. Additionally, as noted, there were very few technology companies willing or able to bid on MCSD work.
26. At the time, Oregon law and MCSD policy both provided the procedures required when a MCSD employee sought to contract with the school district. The employee is required to publicly announce the conflict of interest and exclude himself from any decision-making responsibility related to the requested products and/or services. Mr. Arbogast followed this procedure for bids submitted by ABS.

27. Additionally, the MCSD Purchasing Policy stated that MCSD could not exclude ABS from submitting a bid just because Mr. Arbogast was a MCSD employee, as long as the potential conflict of interest was disclosed, which it was. See Exhibit 9 (Morrow County School District policy, "District Purchasing", paragraph 12, adopted 10/12/98).
28. I discussed the issue of whether ABS could permissibly bid on MCSD E-rate work with Rhonda Lorenz, the MCSD Business Manager. We agreed that there was no prohibition on ABS bidding on E-rate work or non-E-rate work for MCSD.
29. As such, MCSD solicited quotes and bids from ABS for both E-rate eligible and non-E-rate eligible products and services. Mr. Arbogast informed the County School District Board of the potential conflicts of interest and MCSD made all necessary efforts to exclude Mr. Arbogast from the bid reading and selection process. See Exhibit 26 (August 20, 2001 Minutes from Executive Session Board Meeting, Nute Arbogast's Presentation to the Board).
30. At the time, I reviewed documents from ABS that proved to my satisfaction that ABS was not making a profit on the E-rate products/services it provided to MCSD. 
31. At all times during my tenure as MCSD Superintendent, MCSD's E-rate competitive bidding process, including vendor selection and contract award decisions, was ultimately controlled by me in my role as the MCSD Superintendent and the Morrow County School District Board. At no time did I or MCSD relinquish control of the bidding process to Mr. Arbogast. Mr. Arbogast was an employee of MCSD who reported to me. Although Mr. Arbogast prepared the E-rate paperwork and performed the legwork due to his position as MCSD's Technology Coordinator, he was not the decision maker on vendor selection or contract awards.

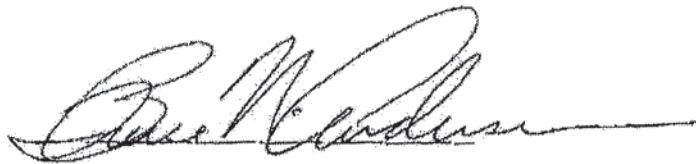
Funding Year 2001

32. During Funding Year 2001, after receiving no bids from either the posting of the Form 470 or the newspaper advertisement calling for bids, MCSD asked ABS to bid on an E-rate eligible high speed internet project for MCSD.
33. In Funding Year 2001 the bid received from ABS was the lowest, followed by the bid received from Morrow Development Corporation ("MDC"). MCSD also solicited bids from Qwest and UUNET.
34. At the time, I did not know that it would be an E-rate rules violation for ABS to bid on E-rate products and services. To my knowledge, no one within MCSD knew that this was a problem. I believed MCSD was in compliance with Oregon and MCSD policy, and was not aware of any other rule that would prohibit this. So, the MCSD Board and I evaluated the bids received and chose ABS as the vendor for the high speed internet access project.

35. On January 18, 2001, MCSD filed a Form 471 for Funding Year 2001, which included the contract for high speed internet with ABS. *See Exhibit 18 (MCSD Funding Year 2001 Forms 471).*
36. Before completing any of the contracted-for services, ABS informed MCSD that it would not be able to complete the project. My understanding was that ABS was not big enough, with enough capital to do all of what MCSD needed.
37. MCSD sought out a replacement company for the high-speed internet access project. MDC was the only interested company able to meet the school district's needs. On August 20, 2001, MCSD entered into an agreement with MDC to complete the high speed internet access project. *See Exhibit 30 (Agreement between MCSD and MDC for High Speed Internet Access Project).*
38. On October 11, 2001, MCSD contacted USAC requesting a SPIN change for the high speed internet access project from ABS to MDC. *See Exhibit 16 (Letter from MCSD to USAC re: Spin Correction Request).*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 7-18, 2011.



Bruce Anderson

EXHIBIT 7

**DECLARATIONS REGARDING
THE 2003-2004 APPEAL**

DECLARATION OF GARY NEAL

I, Gary Neal, hereby provide this Declaration in connection with the Supplement to Consolidated Request for Review and Waiver Request submitted by Morrow Development Corporation to the Federal Communications Commission ("Supplement").

1. I am the Administrator of Morrow Development Corporation ("Morrow Development"). I have held this position from the time Morrow Development was formed in 1994. Morrow Development is a non-profit corporation to deliver services that include small business relending, using USDA's Intermediary Relending Program ("IRP") guidelines. Morrow Development works with local businesses and banks to help finance businesses in Morrow County through the relending program. Morrow Development has successfully helped over 50 businesses in Morrow County and have received USDA funds for this program. Morrow Development continues its relending program and is focused on giving that assistance to small businesses in Morrow County.

2. Morrow Development has little funds to pay for this appeal process, let alone repayment of \$2.3 million dollars in funds that were believed to be properly awarded 4-5 years ago, and have already been spent on valuable E-rate services provided to the Morrow County School District ("School District"). Morrow Development will have to declare bankruptcy, and will no longer be able to help small businesses in its county, if it is not successful in this appeal or waiver. The only funds or primary assets Morrow Development has are its restricted funds through the USDA IRP relending program. There is no money available to return \$2.3 million to the government.

2. In my capacity at Morrow Development I have responsibility for Morrow Development's participation as a service provider in the E-rate program, including for the funding years that are the subject of the Supplement, FY2003 and FY2004.

3. Nate Arbogast was not an employee of Morrow Development. Arbogast provided certain consulting services to Morrow Development after a company in which Arbogast was invested, ABS computers, sold assets and service contracts to Morrow Development in 2001. To my knowledge, Arbogast

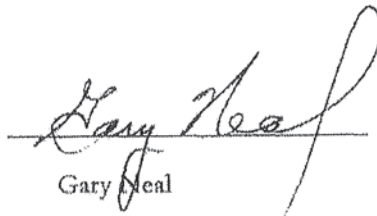
provided technology consulting services to many companies in Oregon since there were few technology resources in the region in that time.

4. In conjunction with the assignment of assets to Morrow Development, Arbogast consulted with Morrow Development on various technology matters and technology contracts. Only one of these matters involved the School District. For example, Arbogast worked for Morrow Development on the Ione Project, Kinzua Mill Project, Oregon Trail Library Project and the LeGrande Project, among others.

5. With respect to E-rate services sought by the School District for FY2003 and FY2004, Morrow Development was provided with no information by the School District that was not publicly available to all bidders for the School District's E-rate services. At no time did Arbogast consult with or advise Morrow Development with respect to its E-rate bids for, or contracts with, the School District. At no time did Arbogast provide anyone at Morrow Development with inside information about the E-rate services requested by the School District. At no time did Nate Arbogast furnish Morrow Development information in advance of, or during, the competitive bidding process that would have given Morrow Development an advantage over other bidders.

6. All dealings between Morrow Development and the School District with respect to FY2003 and FY2004 were, to my knowledge, strictly arm's length.

I declare under penalty of perjury this 28th day of April, 2010, that the foregoing representations and statements are true and correct.

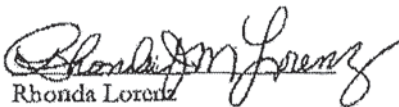

Gary Neal

Declaration of Rhonda Lorenz

I, Rhonda Lorenz, hereby provide this Declaration.

1. I have served as the Business Manager for Morrow County School District ("School District") since 2000. In this capacity, I am the chief fiscal officer for the School District and undertake all banking, accounting, budgeting and purchasing for the School District.
2. With respect to applications for E-rate funding filed by the School District for FY2003 and FY2004, I had three roles.
3. First, I assisted Tami Sneddon, the School District's Technology Secretary, to prepare and execute applications for E-rate funding, including signing Form 470, Application Number 378760000479541. I am an employee of the School District and I am not associated in any manner with any of the seven (7) service providers that were awarded contracts by the School District for FY2003 or FY2004.
4. Second, I was the individual that opened all competitive bids submitted by service providers that wished to provide E-rate services to the School District. I opened the bids and recorded them. I then turned the bids over directly to Superintendent Crippen for his consideration. No one else was provided with the bids, including Nate Arbogast.
5. Third, I assisted Tami Sneddon in responding to questions from USAC about the School District's competitive bidding process for FY2003 and FY2004, including sending a letter to Laura Ransegnola at USAC dated April 29, 2003 which discussed the School District's FY2003 budget, including technology spending.

I declare under penalty of perjury that the foregoing is true and correct.


Rhonda Lorenz
Business Manager
Morrow County School District

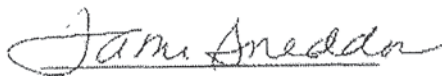
Date: April 29 2010

Declaration of Tami Sneddon

I, Tami Sneddon, hereby provide this Declaration.

1. I served as the Technology Secretary for the Morrow County School District ("School District") from 2001 through 2004. I replaced Mary Ann Munkers, who first filled this position for the School District.
2. I prepared and was both a point of contact and a signatory on the Forms 470 that were submitted for E-rate services for FY2003 and FY2004. Rhonda Lorenz, the Business Manager for the School District assisted in these efforts and also served as a signatory on one of the forms. At all times, I was an employee of the School District and I was not associated in any manner with any of the seven (7) service providers that were awarded E-rate contracts by the School District for FY2003 or FY2004.
3. As the Technology Secretary and the E-rate contact person for the School District, I solicited bids from service providers for E-rate services. Together, Superintendent Jack Crippen and I oversaw the School District's competitive bidding processes for E-rate services for FY2003 and FY2004.
4. As evidenced in the Administrative Record, I posted the School District's Form 470 on the USAC website for the required 28 days, I published requests for bids for E-rate service in the local newspaper, the Heppner Gazette Times, and I requested and solicited bids from various vendors that did not initially bid for School District E-rate services. Soliciting these additional bids was, for certain E-rate contracts, required in order to comply with Oregon public contract law. Seeking these additional bids was not required by FCC or USAC rules.
5. For each E-rate service requested by the School District, after receiving and soliciting all bids that were required either by federal law or state law or both, I prepared a "bid sheet" with information about all bids that were received and solicited for that service. I signed the bid sheets as the School District representative that secured all bids. I provided this bid sheet to Superintendent Jack Crippen who reviewed the bids and selected the service provider for each E-rate contract. Superintendent Crippen then communicated with winning bidders to whom E-rate contracts were awarded.
6. For FY2003 and FY2004, the School District awarded E-rate contracts to seven (7) different service providers, only one of which was Morrow Development. Morrow Development did not win all of the contracts on which it bid. For example, Uni-Tech Communications was awarded a LAN network contract on which Morrow Development bid because Uni-Tech offered service at a lower price.
7. As evidenced in the Administrative Record, I also was responsible for responding to four (4) different requests by USAC about the competitive bidding process that was undertaken by the School District for FY2002 and FY2003. I responded fully and completely to all USAC requests before USAC determined to fund the School District's E-rate applications for FY2003 and FY2004.

I declare under penalty of perjury that the foregoing is true and correct.


Tami Sneddon

Date: April 30, 2010

DECLARATIONS REGARDING THE 2001 APPEAL

DECLARATION OF DIRK DIRKSEN

I, Dirk Dirksen, declare under oath, pursuant to 28 U.S.C. § 1746 and 47 C.F.R. § 1.16:

1. I am currently the Superintendent of the Morrow County School District ("MCSD")
I am a resident of the State of Oregon and am more than 18 years of age
2. I make this Declaration based upon facts within my personal knowledge and a review of relevant records of the MCSD.
3. I was hired as the MCSD Superintendent in 2011. Before then, I worked as a principal in the school district for 8 years.
4. Mr. Arbogast resigned from his position as MCSD Technology Coordinator in August 2004, before I became MCSD Superintendent.

Morrow County School District

5. MCSD is located in rural north central Oregon, bordered on the north by the Columbia River and the Umatilla National Forest on the southern border. Although the county covers more than 2,000 square miles, the population is only about 11,100 people.
6. The district has nine schools and serves the four communities of Boardman, Irigon, Heppner and Lexington. We educate 2,300 students in kindergarten through 12th grade. The student population in Boardman and Irigon is diverse and growing with the largest minority group being Latino/Hispanic
7. Morrow County has a poverty rate of 21.6% for those under the age of 18, and an overall poverty rate of 14.8%. The percentage of students in the school district eligible for National Student Lunch Program, an indicator of poverty, was 48% in 1998; 47% in 1999; 49% in 2000; 47% in 2001; 56% in 2002; and 61% in 2003. See Exhibit 27 (Morrow County: Reduced Price School Lunch Program)
8. When taken together, the schools that comprise MCSD had a shared E-rate discount rate of 73% in 1998, 75% in 1999; 75% in 2000; and 82% in 2001

Hiring of Nate Arbogast

9. Mr. Arbogast was hired by MCSD in 1996, about 15 years before I became MCSD Superintendent. See Exhibit 23 (Arbogast Employment Contract signed by Superintendent Starr on 7/10/96 and by Scott Bauska, Chairman of the School Board

on 7/8/96). MCSD Superintendent Chuck Starr, who hired Mr. Arbogast, and under whose supervision MCSD's first E-rate applications were filed in 1998, is deceased

10. Mr. Arbogast reported directly to the MCSD Superintendent.
11. Over the course of his employment with MCSD, Mr. Arbogast reported to five different Superintendents. Mr. Arbogast first reported to Superintendent Charles Starr (1996-1999), then Superintendent Bruce Anderson (1999-2002), then Superintendent Jack Crippen (2002-2003), then Interim Superintendent George Murdoch (2003-2004) and then Superintendent Mark Burrows (2004-2011).
12. To my knowledge, none of the prior MCSD superintendents who supervised Mr. Arbogast had any relevant computer experience or extensive knowledge of the E-rate program. This does not surprise me, given the time periods involved (pre-2004), our rural geographic location in Oregon and the fact that the job of MCSD superintendent includes a broad set of duties akin to a Chief Executive Officer with responsibility for all schools and employees in the school district.
13. The Form 470 at issue was filed in December 2000, approximately 11 years ago. See Exhibit 13 (FY 2001 Form 470)

The Competitive Bidding Process

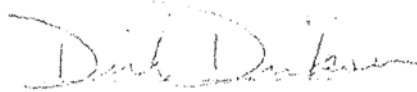
14. To the best of my knowledge, the E-rate competitive bidding process, including vendor selection and contract award decisions, has always been controlled by the MCSD Superintendent and the Morrow County Board of Directors.
15. Since 2005, MCSD has contracted with the Umatilla Morrow Education Service District to process our E-rate applications and other paperwork. In Oregon, Education Service Districts provide various services to small school districts that cannot afford to provide those services through the employees of the school district itself. MCSD is confident in the professionalism of the Umatilla Morrow Education Service District with respect to E-rate compliance.

MCSD Cannot Repay the E-Rate Funds

16. With respect to the E-rate services that USAC seeks reimbursement for, MCSD never received those monies directly. MCSD received the services provided by the Service Providers. Those services, such as high speed internet services, were consumed many years ago in 2001-2002. Given the nature of the program, there is nothing tangible for MCSD to sell off to be able to repay the government.
17. Should MCSD be forced to pay USAC the amounts demanded, MCSD will be forced to sell school properties and lands and shut down schools. It goes without saying that this would have a disastrous and irreparable negative impact on MCSD's ability to educate the children living within this school district.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 7/11, 2011

A handwritten signature in cursive script, appearing to read "Dirk Dirksen".

Dirk Dirksen

FAX 202-282-5100
Ryan Spiegel

DECLARATION OF BRUCE ANDERSON

1. Bruce Anderson, declare under oath, pursuant to 28 U.S.C. § 1746 and 47 C.F.R. § 1.116:

1. I was the Superintendent of the Morrow County School District ("MCSD") from July 1, 1999 until June 30, 2002, when I retired. I am a resident of the State of Oregon and am more than 18 years of age.
2. I make this Declaration based upon facts within my personal knowledge and a review of relevant records of the MCSD.
3. After being drafted into the U.S. military, I worked for several years in a series of small (at the time) towns in Northern California. I was an agriculture instructor, a vocational educator in Modesto, California; the assistant to the Superintendent in Shasta County, California; and a School Administrator in Redding, California.
4. Then, I worked as a Superintendent in Oregon public schools for 23 years, from 1979 to 2002. I held the following Superintendent positions: Adrian, Oregon from 1979-1982; Colton, Oregon from 1983-1988; Tillamook County, Oregon from 1988-1992; Crook County, Oregon from 1992-1999; and finally, Morrow County, Oregon from 1999-2002. All of these school districts were, at the time, small and relatively rural.
5. I retired from MCSD in 2002, and am still retired.

Hiring of Nate Arbogast

6. Mr. Arbogast was hired by MCSD in 1996, which was before I became Superintendent in 1999. The then-current MCSD Superintendent, Charles ("Chuck") Starr hired Mr. Arbogast.
7. Former Superintendent Starr is now deceased.
8. Based on my review of MCSD files, Mr. Arbogast submitted his resume and cover letter in response to an advertisement for the Technology Coordinator position, and in his cover letter, he informed MCSD that he owned his own technology company, Arbogast Business Services ("ABS"). See Exhibit 22 (Letter from Nate Arbogast to Julie Ashbeck, Personnel, MCSD, May 9, 1996).
9. Based on my review of his personnel file, MCSD hired Mr. Arbogast according to normal MCSD procedures. The MCSD Board approved Mr. Arbogast's hiring at the school board meeting of June 10, 1996. See Exhibit 23 (Arbogast Employment Contract, signed by Superintendent Starr on 7/10/96 and by Scott Bauska, Chairman of the Board on 7/8/96).

10. Mr. Arbogast reported to the MCSD Superintendent. Prior to my term as Superintendent, Mr. Arbogast reported to Superintendent Charles Starr, who was the Superintendent from 1996 to 1999.
11. During the time Mr. Arbogast reported to me, from 1999 to 2002, I believed that Mr. Arbogast was extremely qualified for the position he held. He had far more computer experience than anyone else who worked for MCSD. I personally had very little to no expertise in computers, technology or the Internet. My low level of computer literacy was pretty consistent with most public school educators in our part of rural Oregon at that time, which was about 12 years ago.
12. At the time I was Superintendent, I believed that MCSD was lucky to have anyone on staff who was as knowledgeable about computers as Mr. Arbogast. At the time, qualified individuals such as Mr. Arbogast were very rare in our rural part of the state. Mr. Arbogast was very hard-working, and I believe, truly dedicated to bringing internet technology to MCSD. He was from our part of the state, as was his family, and lived here with his wife and children.
13. When I was hired as Superintendent, I was told that Mr. Arbogast owned his own technology company, ABS.

E-rate

14. At the time I became MCSD Superintendent in 1999, MCSD was already participating in the E-rate program. E-rate was a new program, having just started the year before, in 1998.
15. The first time MCSD participated in the E-rate program was in 1998, the year before I was hired as Superintendent. The first year MCSD participated in E-rate was about two years after Mr. Arbogast was hired by MCSD as Technology Coordinator.
16. From my perspective, E-rate was a very complex program, and very few of us in the public schools in our part of Oregon knew much about it. When I resigned from my prior Superintendent position in Crook County School District, Oregon, they had not yet begun to participate in E-rate, or if they did, I was not involved in the process. Crook County, Oregon was also a rural school district.
17. As Superintendent of MCSD, I functioned as the school district's Chief Executive Officer and had general supervisory responsibilities over all schools and employees. As such, my responsibilities were very broad and diverse. It would have been impossible for me to attain in-depth knowledge of E-rate and still fulfill my other traditional responsibilities as Superintendent. Thus, I, and everyone else at MCSD relied heavily on Mr. Arbogast, as Technology Coordinator, for his knowledge of the E-rate program.

18. I had confidence in Mr. Arbogast's knowledge of E-rate, and believed that Mr. Arbogast tried to understand and keep MCSD informed of the evolving E-rate rules.
19. During my tenure as Superintendent, I believed that MCSD was in full compliance with all state, local and E-rate rules.
20. One of Mr. Arbogast's tasks as MCSD Technology Coordinator was to assess the technology needs for MCSD each year. Another task was to fill out and submit MCSD's Form 470. It only made sense that Mr. Arbogast was listed as MCSD's contact person on the Form 470. He was the most knowledgeable person at MCSD regarding MCSD's technology plan, and he was MCSD's Technology Coordinator, and the MCSD employee responsible for day-to-day E-rate activities. It would not have made sense for MCSD to list another MCSD employee as the Form 470 contact person.
21. MCSD is located in a remote and rural area of Oregon. Due to our rural location and the relatively small size of our school district, there were very few technology and Internet companies that were willing or able to work with the school district at the time. Some companies would not deal with MCSD because MCSD did not have enough (computer) users, and there simply was not enough revenue to be made in MCSD for bigger firms. It was always an uphill battle attracting E-rate service providers to MCSD.
22. During the first few years of the E-rate program, MCSD never received any bids in response to its Form 470s.
23. In compliance with Oregon state law and MCSD policy, MCSD included a call for bids for E rate eligible products and services in the local newspaper. This method seldom resulted in bid responses.
24. To comply with Oregon state law on purchasing, and in order to ensure that MCSD received the best prices, if three bids were not received, MCSD would contact eligible Service Providers to request a quote. See Exhibit 20 (Oregon Revised Statutes § 279C.414). Mr. Arbogast performed this role.
25. When the E-rate program began in 1998, ABS was the only Cisco-authorized partner in Morrow County. At the time, Cisco held the patent for the routers required by MCSD. Additionally, as noted, there were very few technology companies willing or able to bid on MCSD work.
26. At the time, Oregon law and MCSD policy both provided the procedures required when a MCSD employee sought to contract with the school district. The employee is required to publicly announce the conflict of interest and exclude himself from any decision-making responsibility related to the requested products and/or services. Mr. Arbogast followed this procedure for bids submitted by ABS.

27. Additionally, the MCSD Purchasing Policy stated that MCSD could not exclude ABS from submitting a bid just because Mr. Arbogast was a MCSD employee, as long as the potential conflict of interest was disclosed, which it was. See Exhibit 9 (Morrow County School District policy, "District Purchasing", paragraph 12, adopted 10/12/98).
28. I discussed the issue of whether ABS could permissibly bid on MCSD E-rate work with Rhonda Lorenz, the MCSD Business Manager. We agreed that there was no prohibition on ABS bidding on E-rate work or non-E-rate work for MCSD.
29. As such, MCSD solicited quotes and bids from ABS for both E-rate eligible and non-E-rate eligible products and services. Mr. Arbogast informed the County School District Board of the potential conflicts of interest and MCSD made all necessary efforts to exclude Mr. Arbogast from the bid reading and selection process. See Exhibit 26 (August 20, 2001 Minutes from Executive Session Board Meeting, Nate Arbogast's Presentation to the Board).
30. At the time, I reviewed documents from ABS that proved to my satisfaction that ABS was not making a profit on the E-rate products/services it provided to MCSD.
31. At all times during my tenure as MCSD Superintendent, MCSD's E-rate competitive bidding process, including vendor selection and contract award decisions, was ultimately controlled by me in my role as the MCSD Superintendent and the Morrow County School District Board. At no time did I or MCSD relinquish control of the bidding process to Mr. Arbogast. Mr. Arbogast was an employee of MCSD who reported to me. Although Mr. Arbogast prepared the E-rate paperwork and performed the legwork due to his position as MCSD's Technology Coordinator, he was not the decision maker on vendor selection or contract awards.

Funding Year 2001

32. During Funding Year 2001, after receiving no bids from either the posting of the Form 470 or the newspaper advertisement calling for bids, MCSD asked ABS to bid on an E-rate eligible high speed internet project for MCSD.
33. In Funding Year 2001 the bid received from ABS was the lowest, followed by the bid received from Morrow Development Corporation ("MDC"). MCSD also solicited bids from Qwest and UUNET.
34. At the time, I did not know that it would be an E-rate rules violation for ABS to bid on E-rate products and services. To my knowledge, no one within MCSD knew that this was a problem. I believed MCSD was in compliance with Oregon and MCSD policy, and was not aware of any other rule that would prohibit this. So, the MCSD Board and I evaluated the bids received and chose ABS as the vendor for the high speed internet access project.

35. On January 18, 2001, MCSD filed a Form 471 for Funding Year 2001, which included the contract for high speed internet with ABS. *See Exhibit 18 (MCSD Funding Year 2001 Forms 471).*
36. Before completing any of the contracted-for services, ABS informed MCSD that it would not be able to complete the project. My understanding was that ABS was not big enough, with enough capital to do all of what MCSD needed.
37. MCSD sought out a replacement company for the high-speed internet access project. MDC was the only interested company able to meet the school district's needs. On August 20, 2001, MCSD entered into an agreement with MDC to complete the high speed internet access project. *See Exhibit 30 (Agreement between MCSD and MDC for High Speed Internet Access Project).*
38. On October 11, 2001, MCSD contacted USAC requesting a SPIN change for the high speed internet access project from ABS to MDC. *See Exhibit 16 (Letter from MCSD to USAC re: Spin Correction Request).*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on, 7-18, 2011.



Bruce Anderson

DECLARATION OF RHONDA LORENZ

I, Rhonda Lorenz, declare under oath, pursuant to 28 U.S.C. § 1746 and 47 C.F.R. § 1.16:

1. I recently retired as the Business Manager for the Morrow County School District ("MCSD"). I am a resident of the State of Oregon and am more than 18 years of age.
2. I make this Declaration based upon facts within my personal knowledge and a review of the relevant records of the MCSD.
3. I worked for MCSD for approximately 29 years, since 1982.
4. From 1987 – 1989, I served as the business manager of MCSD. In 2000, I returned to the position of MCSD business manager and remained in that role until I retired. I reported to the Superintendent. The role of the business manager includes helping to develop budgets, advising the Superintendent on budgets, as well as some contract negotiations and other tasks.
5. I have a high school diploma. I do not have a college degree.
6. MCSD did not have a computer network system prior to Mr. Arbogast's hiring by the district in 1996. MCSD had approximately 100 computers when Mr. Arbogast was hired, and by the time he resigned, more than 700 computers were connected to the MCSD network system.

Hiring of Nate Arbogast

7. Mr. Arbogast was hired by MCSD as the Technology Coordinator in July of 1996.
8. At the time, Charles (Chuck) Starr was the Superintendent of MCSD and Mr. Arbogast's direct supervisor. Mr. Starr is now deceased.
9. Based on my review of the MCSD records, Mr. Arbogast's duties upon hiring included facilitating and implementing Local Area Networks (LAN) and Wide Area Networks (WAN), coordinating and providing software training, coordinating installation of all software, and maintaining a high level of computer-related training for employees of MCSD. See Exhibit 24 (96-97 Goals & Criteria, Nate Arbogast).

E-rate

10. When the E-rate program began in 1998, Mr. Arbogast, was responsible for drafting the district's technology plan and the E-rate application process. His job description for 1998 included to coordinate E-rate documentation. See Exhibit 25 (Morrow County School District Job Description for Computer Technician, signed 9/8/98 by Nate Arbogast).


11. Mr. Arbogast did not receive any formal or informal training on E-rate from MCSD. My understanding was that he learned the E-rate process on his own, and would contact the E-rate helpline and the USAC website for guidance.
12. Due to the complexity of the E-rate application process, the MCSD relied on Mr. Arbogast's technological expertise to ensure compliance with program rules and regulations. It was my impression that Mr. Arbogast worked hard to stay informed of all E-rate rules.
13. As Business Manager for MCSD, Mr. Arbogast and I would discuss MCSD budget and funding issues related to E-rate.

ABS and Mr. Arbogast

14. When I became aware that Mr. Arbogast's company, Arbogast Business Services ("ABS") was going to bid on MCSD E-rate projects, myself, Mr. Arbogast, and Julie Ashbeck (MCSD's Human Resources Director) sat down together and consulted the relevant Oregon Revised Statutes and MCSD policies, as well as the FCC regulations of which we were aware. I was skeptical and wanted to make sure MCSD was in compliance. Mr. Arbogast and Ms. Ashbeck similarly wanted to make sure that MCSD was in compliance with all state and local competitive bidding requirements.
15. Based on our reading of the statutes at the time, we all believed that as long as the conflict of interest was declared and measures were put in place to avoid any competitive bidding violations, ABS could legally bid on E-rate eligible products and services.
16. After these meetings and discussions with Mr. Arbogast and Ms. Ashbeck, I then discussed the issue of whether ABS could permissibly bid on MCSD E-rate work with Superintendent Anderson. The Superintendent agreed that there was no prohibition on ABS bidding on E-rate work or non-E-rate work for MCSD.
17. As one of the few companies in the school district providing technology goods and/or services, ABS was called upon to bid for various E-rate eligible and non E-rate eligible goods and services.
18. It was not until MCSD received its Funding Commitment Adjustment Letter rejecting all funding requests for Funding Year 2002 that we became aware that it was a violation of E-rate competitive bidding rules when a Service Provider listed on the Form 471 is associated with the contact person listed on the Form 470.
19. Once informed of the USAC competitive bidding rules about who could be listed as the contact person on the Form 470, MCSD took the necessary steps to ensure future compliance.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 18, 2011.


Rhonda Lorenz

**DECLARATIONS FOR THE
JOINT PETITION FOR RECONSIDERATION**

**DECLARATION OF DIRK DIRKSEN
MORROW COUNTY SCHOOL DISTRICT**

I, Dirk Dirksen, declare under penalty of perjury that the following is true and correct to the best of my knowledge and belief:

1. I am currently the Superintendent of the Morrow County School District ("School District"). I have held this position since 2011. Before then, I worked as a principal in the School District for eight years.

2. The School District is located in rural Eastern Oregon and serves 2181 students.

3. The School District is economically disadvantaged. Over 70 percent of its students are eligible for the National School Lunch Program.

4. The total general budget for support services in the School District is \$3,992,459 for Fiscal Year 2013-14.

5. Over the past ten years, school funding has continually decreased in the state of Oregon both in real dollars and as a percentage of the overall state budget.

6. The decrease in state funding has already caused substantial challenges to the School District, including staff reductions by eleven percent, poorly maintained facilities, and a lack of new computers in the past seven years, shared textbooks, and consolidated buildings.

7. Current estimates show that the School District is anticipating a significant increase in its public employee retirement program that will further subsume its resources.

8. The School District does not have the funds to repay the Universal Service Administrative Company ("USAC") \$1.4 million related to applications from Funding Year 2001, nor \$2.3 million related to applications from Funding Years 2003-2004.

9. The School District does not possess anything tangible paid for by the E-rate program that it can sell off to repay the funds back to USAC.

10. Without a waiver, the School District expects to reduce staff by an additional ten percent on top of the cuts that were recently made. This would result in class sizes being increased so that most classrooms would contain 35-plus students.

11. Without a waiver, schools in the district would be faced with an even greater inability to maintain their facilities. Such poorly maintained facilities would further adversely impact student education and health.

12. Without a waiver, class offerings would become even more limited, as would curriculum since the School District would no longer be able to adopt textbooks, which already only happens every seven years.

13. Without a waiver, technology in the School District will be halted. Students in rural Eastern Oregon would have even more limited use of computers that are presently severely outdated. There would be no money to purchase new equipment when current computers stop working and need to be replaced. There would be no funds available to advance education technology in the district, including providing wireless capabilities in the schools.

14. If the School District is forced to pay USAC the amounts demanded, the School District will suffer extreme economic hardship that could force it to sell school properties and

lands and shut down schools. Such a result would have a disastrous and irreparable negative impact on the School District's ability to educate the children living within its district.

Executed on this 20th day of June 2013.

A handwritten signature in cursive script, reading "Dirk Dirksen", written over a horizontal line.

Dirk Dirksen
Superintendent
Morrow County School District

**DECLARATION OF GARY NEAL
MORROW DEVELOPMENT CORPORATION**

I, Gary Neal, declare under penalty of perjury that the following is true and correct to the best of my knowledge and belief:

1. I am the Administrator of Morrow Development Corporation ("Morrow Development"), a non-profit corporation that was founded in 1994 as a joint project between the Port of Morrow and the U.S. Department of Agriculture ("USDA")-Rural Business Cooperative Service. I have held this position from the time Morrow Development was formed.

2. Working through the USDA's Intermediary Relending Program ("IRP"), Morrow Development helps finance small businesses throughout Morrow County to establish new business, expand existing business, create employment opportunities, save existing jobs, and develop community projects.

3. Through the IRP, USDA Rural Development lends money to Morrow Development, who in turn re-lends the funds as commercial loans to rural businesses in Morrow County that would typically be precluded from obtaining such financing. When the loans are repaid, Morrow Development is able to make more loans to new recipients, a cycle that has supported sustainable economic development in Morrow County.

4. Morrow Development has played a key role in assisting more than fifty Morrow County businesses through the USDA IRP, including for example Morrow County Health, which was able to retain 180 jobs through IRP funds, and Skills Resource of Eastern Oregon, which was able to train thousands of employees through IRP funds.

5. The financial assistance made available through the USDA IRP has helped maintain jobs in an almost depression-like environment in Morrow County's Rural Timber and Agriculture communities.

6. Morrow Development does not have the resources to repay \$2.3 million to the Universal Service Administrative Company ("USAC") for services fully provided to Morrow County School District under applicable E-rate applications from Funding Years 2003-2004.


7. The only funds or primary assets Morrow Development has are its restricted funds through the USDA IRP relending program.

8. If Morrow Development is forced to repay \$2.3 million dollars in funds that were believed to be properly awarded approximately a decade ago and have already been spent providing services, it will have to declare bankruptcy.

9. If Morrow Development is forced to declare bankruptcy, it will potentially trigger a default of the IRP program which would cause additional hardship to this Federal program that is desperately needed by rural communities like Morrow County.

10. Without the help of Morrow Development and the USDA IRP program, Morrow County businesses will lose critical access to loans that will not otherwise be provided by financial institutions, causing further economic hardship to the already disadvantaged communities throughout Morrow County.

Executed on this 20th day of June 2013.



Gary Neal
Administrator
Morrow Development Corporation



Morrow Development Corporation

P.O. Box 219

Heppner, Oregon 97836

www.morrowdevelopmentcorporation.com

Investments Made...

Real Jobs Created...

Partnerships Forged...

Cascade Specialties

\$150,000
28 & 60 Full-Time &
Temp. Jobs Created

*Skills Resource of Eastern Oregon**

\$239,857
Thousands of Employee's
Trained and Employed

Desert Springs Estates

\$150,000
4 Jobs Created

*Heppner Garbage Disposal Service**

\$106,000
1.5 Jobs Retained

City of Ione

\$6,000

*Kegler's Sentry**

\$150,000
5 Jobs Created
15 Jobs Retained

Columbia River Equestrian Center

\$30,000
3 Jobs Created

*Wesley Wise Excavation**

\$121,400
2 Jobs Created
4 Jobs Retained

Heppner Day Care, Inc.

\$27,500
6 Jobs Retained

Hancock Rock Crushing

\$88,000
2 Jobs Created

Huddleston Paper

\$57,661
3 Jobs Retained

Town of Lexington

\$125,000
2 Job Retained

Doherty-Russell Partnership

\$150,000
2 Jobs Created

Boardman Storage

\$97,000
2 Job Created

Ione Auto Repair

\$40,000
3 Jobs Retained

Portview Ranches

\$38,136
1 Job Created

*Boardman Auto Repair**

\$137,983
3 Jobs Retained

Northwest Logistics

\$22,500
.5 Jobs retained

*Miller Manufacturing**

\$98,541
3 Jobs Created
2 Jobs Retained

*Green Acres R.V. Park**

\$240,000
3 Jobs Created

Green Feed & Seed

\$77,750
4 Jobs Retained

Pam's Posies' 'n Stuff

\$5,600
3 Jobs Retained

Willow Creek Park & Recreation District

\$5,500

*Miller & Sons Welding**

\$150,000
3 Jobs Created
2 Jobs Retained

Northwestern Motel

\$150,000
2 Jobs Created

Morrow Cold Storage

\$35,850
85 Jobs Created

*Colin Transportation**

\$142,000
4 & 16 Full-Time &
Temporary Jobs Created

Boardman Post Office

\$50,000
1 Job Created

Josh Roy Tree Trimming

\$16,000
1 Job Created

Riverview Motel

\$55,000
1 Job Created
2 Jobs Retained

*W.I. Construction**

\$182,450
6 Jobs Created
6 Jobs Retained

* Denotes multiple loans.

Waite Family Fencing

\$6,000
1.5 Jobs Created

*Bailey Heavy Equipment**

\$188,820
7 Jobs Created
1 Job Retained

*Boardman Foods, Inc.**

\$250,000
10 Jobs Created
80 Jobs Retained

Leone, Daniel J.

\$30,000
3 Jobs Created

Blue Spruce Apartments

\$45,360
2 Jobs Created

Fallon, Michael & Phyllis

\$240,000
2 Jobs Created
2 Jobs Retained

*WindWave Technologies**

\$250,000
2 Jobs Created
4 Jobs Retained

Laukkanen, Norman & Carol

\$60,891
2 Jobs Created

Taylor Industries, Inc.

\$200,000
25 Jobs Created
12 Jobs Retained

Morrow County Health

\$150,000
180 Jobs Retained